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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1227th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 12 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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GE.97-17794 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Initial, second and third periodic reports of the former Yugoslav Republic of Macedonia (continued) (CERD/C/270/Add.2; HRI/CORE/1/Add.83)

1. At the invitation of the Chairman, the members of the delegation of the former Yugoslav Republic of Macedonia resumed their places at the Committee table.

2. Mr. GARVALOV said that, unlike the reports of many new States parties, that of the former Yugoslav Republic of Macedonia had been drafted in accordance with the Committee's guidelines and the provisions of articles 2 to 7 of the Convention, and had been usefully updated orally. Most States encountered severe difficulties in their transition to democracy and it was to be hoped that Macedonia would soon be able to move forward faster in building a genuine democracy. The Committee would give it every support, encouragement and assistance in implementing the provisions of the Convention.

3. It was unfortunate, however, bearing in mind the problem with the Albanians, that information which the Committee had specifically requested under its early warning procedures on the violent incidents in Tetovo and the Albanian university there had not been included in the report. Specific information might also have been provided on the incidents which had taken place in April, May and June of the current year.

4. Did the guarantees in articles 8 and 48 of the Constitution concerning the free expression of the national identity, and the right of members of minorities freely to express, foster and develop their identity and national attributes and to the protection of their ethical, cultural, linguistic and religious identity apply to all minorities in the Republic of Macedonia or only to those listed in paragraph 57 of the report?

5. He drew attention to a discrepancy between the original language version of article 49 of the Commission and a translation into English in a 1991 edition of the magazine Napredok. Whereas the original version of that article, which had in fact subsequently been amended to the effect that the Republic would not interfere in the sovereign rights of other States and in their internal affairs, had provided that the Republic cared for the status and rights of the Macedonian people in the neighbouring States as well as Macedonian expatriates, there was no definite article before "neighbouring States" in the English translation. Such an omission could have important political implication in terms of the inclusiveness of the provision. Some consideration should also be given to the expressions "neighbouring States" in article 49 and "other States" in the amendment, and to whether they meant the same or different States.

6. According to article 51 of the Constitution the country's laws should be in accordance with the Constitution and all other regulations should be in accordance with the Constitution and the law. In 1994, three Macedonian citizens of ethnic Bulgarian origin had been thoroughly searched at a border

checkpoint on their return from a visit to Bulgaria, and the Bulgarian newspapers and other publications in the Bulgarian language in their possession had been confiscated. They had been charged and sentenced on the basis of a law on the import of foreign literature and broadcasting material which had been adopted in the former Yugoslavia in 1974 and had been in force for some time in the Republic of Macedonia after independence. That law was a clear violation of article 16 of the Constitution guaranteeing free access to information and freedom to receive and transmit information; he wondered whether it had been repealed, and if so, when?

7. At the Committee's previous meeting, questions had been raised in connection with paragraphs 3 and 5 of the report. Macedonia was not the only State to have included security guarantee clauses in its Constitution, and there was nothing wrong in a State party having such clauses for security reasons.

8. Turning to paragraph 15 (a) (i) of the report, he wondered whether there was not some discrepancy between the percentages quoted in relation to the national structure of civilian personnel at the Ministry of Defence and the army and the total population figures according to declared ethnic affiliation, by citizenship, given in paragraph 57 of the report. He also wondered why the Greek and Bulgarian populations had not been included in that table. Censuses taken in the region of Macedonia during the Balkan wars and just after the First World War had listed Turks, Bulgaria, Greeks, Albanians, Wallachians, Jews, Gypsies and Serbs. Had the 1994 census forms included the various categories of ethnic affiliation given in the table and if so, why had the Greeks and Bulgarians not been included as well?

9. Noting the reference in note No. 5 at the end of the report to the signing of the Council of Europe framework Convention for the protection of national minorities and recalling a statement by the Macedonian delegation to the effect that the Macedonian Parliament had found an adequate explanation for the term "national minority", he wondered what was understood by that expression in Macedonia.

10. Mr. CHIGOVERA asked whether the equal protection clause referred to in paragraph 1 of the report, in relation to article 9 of the Constitution, included the non-citizens and persons without citizenship referred to in the table in paragraph 57 of the report. What, also, was the position of non-citizens under article 137 of the Criminal Code? As stated in paragraph 6 of the report, that article of the Criminal Code made the deprivation or limitation of human rights determined by the Constitution, by law or ratified international covenant an offence, and he wished to know how that aspect related in particular to the obligations of States parties under the Convention. For instance, article 4 of the Convention provided not for rights but for the obligation to take specific action to protect rights set forth in the Convention.

11. In connection with the right of citizens to seek the protection of the courts, discussed in paragraphs 10, 27, 32 and 34 of the report, he wondered whether the word "citizens" was all-embracing and covered non citizens as well. Similarly, to what extent did article 7 of the Act on Court Procedures,

referred to in paragraph 29, apply to everyone, including non-citizens, when non-citizens appeared not to be covered at all by the constitutional provisions?

12. Mr. SHAHI, commending the very interesting and comprehensive information on legislative and statutory provisions, which appeared adequate, noted the absence of information on the political rights of minorities such as the Albanians, Turks and others listed in the table in paragraph 57, and asked to what extent they were represented in Parliament and in the Government and generally speaking what rights they enjoyed in public life and in the political and economic field.

13. As a newly independent State, the Republic of Macedonia was to be commended for its presentation of information in the report.

14. Mr. MALESKI (The former Yugoslav Republic of Macedonia) expressed the delegation's gratitude for the Committee's interest, suggestions and recommendations. Some questions required greater preparation and detail and efforts would be made to cover them in the next periodic report.

15. It was unfortunate that the core document was not yet ready, because in preparing the report it had been expected that the demographic data included in the original version as part of its preface would be made available to the Committee. He therefore hoped that the Secretariat would distribute the detailed information as soon as possible and before the concluding observations were drafted. Detailed demographic data had also been filed by the Statistical Division of the Economic Commission for Europe (ECE).

16. The column entitled "others" in the table in paragraph 57 of the report related to some of the results of the 1994 census which had been taken with international expert assistance and the financial support of the Council of Europe and in the presence of an international census observation mission. "Others" included: Austrians 37, Bosnians 7,560, Bulgarians 1,576, Germans 35, Greeks 360, Jews 30, Egyptians 3,351, Italians 61, Muslims 16,105, Romanians 39, Russians 276, Slovaks 55, Slovenes 414, Ukrainians 96, Hungarians 132, Croats 2,420, Montenegrans 2,322, Czechs 90 and others 1,882. Among the 1,882 others were persons not wishing to declare their ethnic affiliation. It had been noted in that regard that people who had declared themselves as Yugoslavs in the 1991 census had almost disappeared from the 1994 census, possibly because they had been unwilling to identify themselves as such in the new State following the tragic events that had taken place between the two censuses. Additional data on the territorial distribution of nationalities included in "others" could be made available if the Committee so wished.

17. The free expression of national affiliation was a fundamental value of Macedonia's constitutional system. National affiliation was traditionally expressed during the censuses, but no lists or questions relating to ethnic origin were included in the census forms, although any information given by individuals was written on the form. For the 1994 census, pursuant to the Census Act, forms had been published in Albanian, Turkish, Roma, Serbian and Vlach as well as in Macedonian, and individuals had been informed of their right to choose the language in which they wished to complete the form.

Special training had been given to the census officials from the minority groups and, where necessary, the assistance of translators had also been provided.

18. Despite the efforts of census-takers, ethnic Turks and Albanians had refused to be enumerated, but the non-enumerated population of Debar accounted for only 0.6 per cent of the total population and the Council of Europe Expert Group had assured the Government of Macedonia that the census still presented a clear and reliable picture of the population of Macedonia. The information on ethnic affiliation and religion had been freely given by the respondents during the census.

19. The conditions for establishing new university-level institutions, as laid down in the law, had not been met in the case of Tetovo University, which seemed to be more the result of a political initiative than an educational effort. Efforts by the Government to accommodate higher education projects for ethnic minorities had been largely successful. Nevertheless, initiatives to educate ethnic minorities in their mother tongue should take place in compliance with international norms and within the legal framework provided.

20. A new law on religious communities had been adopted by Parliament in July 1997 and, thus far, seemed to meet with the satisfaction of the religious communities. The major religious communities in Macedonia were, in descending order of size, the Macedonian Orthodox Christians, Muslims and Catholics who traditionally coexisted peacefully. An update on the implementation of the new law would be provided in the next periodic report.

21. The problem of the enjoyment of freedom of religion and worship by the Serbian minority lay essentially in the fact that the Macedonian Orthodox Church had a different attitude towards the Holy See and the Serbian Orthodox Church had not recognized the Macedonian Orthodox Church, claiming it as its property. Members of the Serbian minority could exercise the right to freedom of religion and worship but if they established churches, such churches would be considered by the Macedonian Government as churches "in diaspora".

22. Mr. TODOROVSKI (The former Yugoslav Republic of Macedonia) thanked the Committee for its good wishes to the Republic of Macedonia's efforts to forge a national identity and national unity while preserving its territorial integrity and said that the period of the dissolution of the former Yugoslavia had been accompanied by a period of social transformation for the people of Macedonia. Efforts had been made to create a clearly defined civic State through the operative part of the Constitution, focusing the rights enshrined therein on the "citizens" of the State, who were to be construed as members of Macedonian society, with no distinction between aliens - or "non-citizens" as they were referred to in the Convention - and nationals. The Constitution, in article 29, dealt separately with the status of foreigners and granted them freedoms enshrined in the Constitution in compliance with the laws of the land and international agreements.

23. He agreed that the concept of the civic State might be seen as compromised by the stipulation of the Macedonian language as the only official language, but the civic State had inherited the legacy of a 47-year-old nation State and it was important to preserve the Macedonian

identity, since the ethnic minorities in Macedonia had connections to more organized and established States. It was, moreover, important to preserve it as a vital ingredient in a wider European cultural diversity.

24. Replying to Mr. Wolfrum's queries about the lack of reference to the Serbian minority in the Constitution, he said that it had been considered risky to mention the tragic events of 1991, but the Serbs were in fact mentioned throughout the Constitution except in the Preamble, and indeed in the legal provisions now being drafted to incorporate the Council of Europe framework Convention on national minorities into national legislation. The intention had been to amend the Constitution as soon as possible but it had been felt that doing so in the present circumstances might prove problematic and hence it had been postponed. In view of the improved relations with the Federal Republic of Yugoslavia, the question of the Serbian minority in Macedonia was no longer an issue and it was hoped that the current situation would prove satisfactory to that minority.

25. Responding to Mr. Garvalov's comments on article 49 of the Constitution, he said that the aim of the article had been to provide for all categories of Macedonian citizens abroad. Any uncertainty about the status of minority Macedonians in neighbouring countries was due to a translation error because some such people never had been Macedonian citizens. In view of its potential for misinterpretation by the international community it had been decided to amend it promptly, in January 1992, since it had not been intended as an attempt to interfere in the domestic affairs of any State, whether neighbouring or further afield.

26. On the subject of the Bulgarian border incident referred to by Mr. Garvalov in relation to article 51 of the Constitution, he said that the Constitution was the supreme law of the land and was not to be confused with the Constitutional Law of the Republic of Macedonia of 17 November 1991, which was merely a law for the implementation of the Constitution under which the laws of the Socialist Federal Republic of Yugoslavia had been transposed mutatis mutandis into Macedonian law. In the absence of full information on the incident, his educated guess was that the confiscation had been made in application of an old federal law, which probably had its counterpart in Bulgaria. Since the transposition of Yugoslav law into Macedonian law, Macedonia had made efforts to introduce laws of its own in addition to the other laws which were already specifically related to the Republic of Macedonia.

27. The delegation of the Republic of Macedonia regretted the lack of detailed information on the Roma people in its report and would make every effort to include more such information in the next periodic report. Preliminary information showed that there were 43,707 self-declared Roma. They were not nomadic and had traditionally settled in the country. They identified strongly with the Republic of Macedonia and citizenship was granted to them on the basis of jus soli. They were divided into two main religious groups, i.e. Orthodox Christians and Muslims, both groups enjoying equal treatment under the law. By the same token they had been granted minority status under the Constitution, which guaranteed them protection as such.

28. The rate of unemployment among Roma was slightly higher than their ratio to the rest of the population. That was due mainly to their lack of sufficient labour skills. Special efforts were being made to improve their education levels and, to that end, programmes to promote minimum standards and to provide motivation for children to stay in school were being implemented. They included financial support and free books for children, as well as counselling for parents to encourage them to keep their children in school.

29. Although the Roma language was not a language of instruction, pioneering efforts had been made in the Republic of Macedonia to provide Roma grammar books and readers. Likewise, adult education programmes had been implemented through a joint programme with UNICEF.

30. Broadcasts in the Roma language stood at 20 hours for television and 174 for radio in 1994 and had been increasing thanks to the efforts of both public and private sector broadcasting stations. The Roma people were represented by two political parties, each of which had a member in Parliament. There were also two Roma representatives on the Council for Interethnic Relations. There were no reported cases of organized violence against the Roma, who enjoyed better conditions in the Republic of Macedonia than their counterparts in other countries, particularly with respect to housing, which had improved considerably thanks to bilateral help. A comparative study of the Roma had been made possible under a Central European initiative and it was hoped that further comparisons for all national ethnic minorities could be undertaken in the near future.

31. Due attention had been and was being paid to the dissemination of international documents. United Nations documents including the Charter and some of the basic human rights instruments had been published in connection with the fiftieth anniversary of the United Nations. The same was done for Organization for Security and Cooperation in Europe (OSCE) documents and it was hoped that through a special agreement with the Council of Europe documents from the Council would be translated and published in all the languages used in the Republic of Macedonia. The Council of Europe had opened an information and documentation centre in Macedonia and efforts were being made to find a location in Skopje for a United Nations information and resource centre, testimony to the confidence of the international organizations in the Republic of Macedonia's willingness to cooperate in the dissemination of international documents, which would also involve schools.

32. Mr. MALESKI (The former Yugoslav Republic of Macedonia), in reply to a request by Mr. Shahi, gave data on the representation of national minorities in political life in Macedonia: there were 55 registered political parties in Macedonia, 15 of which represented national minority interests. Of the 120 seats in Parliament in 1994, 89 were held by ethnic Macedonians, 19 by ethnic Albanians, 1 by an ethnic Turk, 1 by a Roma and 1 by an ethnic Serb. Seven members of minorities held executive power in the present Government in their capacity as ministers. Likewise, the four vice-ministerial posts were held by representatives of political parties which represented national minority interests. It was hoped that more information on minorities would be provided in the next report.

33. Mr. CELEVSKI (The former Yugoslav Republic of Macedonia) said that since its inception in 1993, the Republic Judicial Council had been a significant source of autonomous and independent authority in the jurisdiction of the Republic of Macedonia, playing an advisory role in the election of judges, including judges serving on the Constitutional Court, as well as maintaining ethical and professional standards in the judiciary. The articles of human rights conventions had been incorporated into the internal legal system in accordance with article 118 of the Constitution and further implementation of international standards was to be expected.

34. Citizens were free to form associations and societies as well as political parties duly registered in conformity with the Act on Social Organizations and Citizens' Associations and the Act on Political Parties, respectively, which also provided for their prohibition if their activities were anti-constitutional or included incitement to military aggression, ethnic, religious or racial intolerance, whereas the new Criminal Code provided for the prosecution of criminal acts against the rights and freedoms of citizens.

35. With respect to information, the Constitution guaranteed freedom of access, the free establishment of public media houses, freedom from censorship and the right to protect sources of information.

36. Referring to the international community's interest in the International Criminal Tribunal for the Former Yugoslavia (ICTY), he said that there had been no reported cases of genocide, organized groups or incitement to commit war crimes or crimes against humanity in the Republic of Macedonia.

37. Thus far, no complaints of restriction of freedom of movement and residence within the border of the State had been registered. Freedom of movement was constitutionally guaranteed and regulated under the appropriate acts which provided nonetheless for exceptions for reasons of national security.

38. Mr. MOSTROV (The former Yugoslav Republic of Macedonia) said that declining economic development and considerable financial constraints were making it difficult to provide education to members of national minorities as well as equal educational opportunities in general. His Government hoped for international assistance in developing its educational system and curricula, rebuilding the schools and providing materials and facilities.

39. He emphasized the continuous efforts to increase the enrolment ratio of students from minorities at all levels of schooling. At the pre-school level, 28.9 per cent of minority pupils received instruction in the Albanian language, 1.76 per cent in Turkish and 53 per cent in Serbian. Albanian enrolment in primary school was constantly improving as well: 28.4 per cent of primary schoolchildren from minorities attended institutions providing education in Albanian, 2.26 per cent in Turkish and 0.26 per cent in Serbian. Of the 74,803 minority children in secondary schools, 9.95 per cent received instruction in Albanian. As the report had noted, no instruction was provided in Serbian in the secondary schools because of insufficient interest and resources. The many steps taken to increase the participation and admission of members of national minorities to State institutions and to make it

possible for them to be educated in their mother tongue included the administering of secondary school entrance examinations in Albanian, Turkish and Serbian; intensified professional guidance at the primary level to direct children towards opportunities for continuing their education; and intensive programmes for training teachers in Albanian and Turkish.

40. Regarding public information on access to education, minority children were informed about new classes being offered with instruction in their mother tongue, and the number of such classes was growing constantly. Numerous meetings were organized with parents and community representatives on children's rights, the participation of girls in secondary school and access to higher education. Many in-service teacher training courses for minority language teachers were offered. The Government and the Ministry of Education subsidized the publication and purchase of primary and secondary school textbooks in the minority languages.

41. In response to Mr. Rechetov's question on the implementation of article 3 of the Act on Secondary Education, there had been an interesting case concerning a competition for the admission of pupils to a private Turkish-American college, limited to males. The Government, whose approval was required, had decided that that policy constituted discrimination on the grounds of gender and was contrary to article 9 of the Constitution and consequently to article 3 of the Act on Secondary Education, and that conditions for admission had to be in compliance with the relevant legal provisions. As a result, the first public competition for admission had been withdrawn and a revised one incorporating the requested conditions announced publicly.

42. Regarding measures taken by the Government and the Ministry for ensuring equal rights to education, a new education system and educational standards were being developed, with the assistance of international experts. Joint venture projects were under way with such partners as the Netherlands-based Foundation on Interethnic Relations, the United Nations Children's Fund (UNICEF), the Open Society Institute, and the World Health Organization. The Pedagogical Institute was doing a comparative analysis of history and geography textbooks in the former Yugoslav Republic of Macedonia and Turkey aimed at eliminating phrases that fuelled hatred. National minorities were represented in the Ministry of Education, where the Deputy Minister, the Assistant Minister for Primary Education and several advisers were Albanians, and at the Pedagogical Institute there were several advisers for instruction in minority languages.

43. Education was faced with numerous problems, although some 18 per cent of the budget was devoted to it. The Government was fully aware of the need to develop a policy for planning educational development and to reconsider public expenditures on education.

44. Mr. TODOROVSKI (The former Yugoslav Republic of Macedonia) said his Government believed the definition of national minorities made by the Venice Commission of the Council of Europe was the best available and was trying to make national practice compatible with the framework Convention for the protection of national minorities. The Government was open to the idea of all

minorities claiming a certain status, as article 8 of the Constitution clearly advocated the free expression of national identity. During censuses, no one was bound to choose their nationality from the given list.

45. Under the Constitution, members of national minorities were entitled freely to express, foster and develop their national identity and attributes; the Republic also guaranteed the protection of the ethnic, cultural and religious identity of minorities. Macedonian citizens of Bulgarian origin, for example, had their own newspaper, which was widely available. Whenever minorities tried to foster their identity, the State was bound to assist their efforts, and there was no record of any requests having been denied. There were, however, a total of 24 minorities, and if the State attempted to give each of them the same opportunities on an equal footing, it would be rather expensive.

46. Following on from the State party's declaration under articles 25 and 46 of the European Convention on Human Rights, it was only a matter of time, and parliamentary procedure, before the Republic adopted its declaration under article 14 of the Convention. The same opportunity might be used to propose the establishment of a national commission on human rights and to propose acceptance of the amendment to article 8, paragraph 6, of the Convention and the related financial arrangements.

47. Mr. MALESKI (The former Yugoslav Republic of Macedonia) said that article 49 of the Constitution had been of concern to some neighbouring countries, leading promptly to the adoption of amendments by which the country was in full compliance with the legal norms and standards of international organizations and practice. The Constitutions of some of those neighbouring countries were also of concern to his Government, and he agreed with Committee members that those concerns could be overcome by mutual cooperation between countries. Specific agreements had already been signed with the nation's four immediate neighbours, as well as with Croatia and Turkey; and agreements were being prepared with Romania and Bulgaria. The situation in Albania did not yet allow for an agreement, but a proposal had been made and accepted. Relations with the Federal Republic of Yugoslavia had been regulated, and the interim accord with Greece provided a solid basis for good cooperation and avoiding misunderstandings. More information would be furnished in the next report.

48. Mr. DIACONU said minorities were not entitled in any country to have universities providing education in their mother tongue; as long as there was education in the mother tongue at the highest level, a country was fulfilling its obligations concerning mother-tongue education. Those obligations did not include the administration of a university, but only teaching.

49. Competition or conflict did exist between Churches in other countries over property or goods, thereby denying the rights of believers to practise their religion. It was best for the State not to be involved in that issue but to call upon the Churches to solve the problem on the basis of the principle that Churches belonged to their followers; freedom of religion was at stake.

50. The next report should include a better explanation of what was meant by the heading "unknown" in the table in paragraph 57 of the report on declared ethnic affiliation.

51. Mr. GARVALOV said he was grateful for the delegation's clarifications about the amendment to article 49 of the Constitution as he had wondered why the amendment referred to "other States" whereas the original language used the term "neighbouring States", and perhaps "other States" excluded neighbouring States. He hoped that Bulgaria was not among the neighbouring countries to which that article was of concern, as he did not think it concerned Bulgaria as much as it might concern others. He accepted the census information provided in response to his question about Bulgarians and Greeks. His only concern was that articles 8, 16 and 48 of the Constitution would apply equally to Bulgarians, and that no pressure would be put on them or on any other national minorities to forgo their origins. The 1994 incident involving three Macedonian citizens who had professed their Bulgarian identity was an example of how matters might become difficult and be considered disturbing by neighbouring countries; could the delegation check whether it had really been a case of reciprocity?

52. There were several schools of thought on the definition of a national minority by comparison with the Council of Europe framework Convention. The United Nations had never come up with a definition of a minority or national minority; not even in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Was a national minority national because it was a part of the nation within which it was living, or because it was a part of a neighbouring nation? For one part of Europe, the second eventuality would not cause any problems; for another - south-eastern Europe - it was pregnant with many repercussions on neighbourly and inter-State relations.

53. Mr. MALESKI (The former Yugoslav Republic of Macedonia) thanked members for their questions and comments. His delegation was happy to continue the constructive dialogue which had been established with the Committee, and would endeavour to cover any unanswered questions in the next periodic report.

54. Mr. RECHETOV (Country Rapporteur) thanked the delegation for its detailed answers to the Committee's questions. He hoped that the next periodic report would contain more specific information about the relations between the various religious denominations in Macedonia. If two Churches laid claim to the same property and there were disputes of competence, there were bound to be conflicts. The problems between the Macedonian Orthodox Church and the Serbian Orthodox Church should be resolved according to the law and taking into account the views of the members of both Churches. The Macedonian delegation seemed to suggest that the problem might be resolved by treating the Serbian Orthodox Church as a foreign Church, but he did not believe that was possible when it had previously been the official Church of the country.

55. The Committee had asked about the status of Tetovo University. He had come across a similar situation during his goodwill mission to Kosovo on behalf of the Committee some years before. The problem there had not seemed to be one of the curriculum, but merely of an unwillingness by the parties to

overcome administrative barriers. A second, parallel system of education had grown up, which had split the university in two. Naturally, the issue was an internal one for the Macedonian authorities to decide, but he called upon the Government to reduce the potential for conflict as far as possible.

56. He was satisfied with the delegation's explanation of the national minorities issue. There was no need for a rigorous definition of the term "national minorities", even if such a thing were possible. In a census or election, people should have the freedom to choose the ethnic group to which they considered they belonged, rather than having it prescribed by some public authority.

57. The delegation had spoken of the situation of Macedonian minorities in other countries, citing article 49 of the Constitution. He hoped that article 49 - and indeed the entire Constitution - would be supplied in one of the working languages of the Committee when Macedonia submitted its next report. In his view, it was less of a political issue, as had been suggested, than a purely human one. He was glad to hear that bilateral agreements were being drawn up with neighbouring States, but he was still concerned about the apparent existence of different categories of Macedonians, according to the country where they had settled. Naturally, the situation of an emigrant would vary, depending on where he or she had settled, but it was dangerous to make distinctions. He had also been concerned at the delegation's assertion that Macedonians had only one State, which might be used as an excuse to refrain from improving conditions for them in their new countries.

58. The CHAIRMAN said that the Committee's first meeting with a State party was always a special occasion. The Convention was being applied in situations, such as that of eastern Europe, which its originators had never imagined: however its aim - to build an international community free from all forms of racial segregation and racial discrimination - was valid for all countries. He hoped that Macedonia would see its dialogue with the Committee not as merely a bilateral matter, but as an opportunity to communicate with all the other States parties which were striving towards the same ends.

59. The delegation of The former Yugoslav Republic of Macedonia withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

60. Mr. ABOUL-NASR recalled his proposal that the Committee should discuss changes in the way it prepared its concluding observations on the reports of States parties. Under article 9, paragraph 2, of the Convention, the concluding observations were intended to take into consideration the comments of States parties, but at present they did not do so. It might not be possible to use the new format at the current session, since some concluding observations had been adopted earlier in the year, but the Committee should at least agree on what form the new concluding observations should take so that they could be used from 1998.

61. The CHAIRMAN said that he had understood from the discussion that the Committee wished to return to the issue when it had a set of draft concluding observations before it, in order to make the discussion easier.

62. Informing the Committee of a change in the timetable for consideration of the periodic report of Burundi, he said, in reply to a question by Mr. DIACONU, that it had been impossible to accommodate a request from Burkina Faso for a change of date because of a lack of secretariat support.

63. Mr. SHERIFIS asked when the Committee was due to consider the implications of Mr. Alston's report on the effective functioning of the treaty bodies (E/CN.4/1997/74).

64. He agreed that any change to the format of the concluding observations should not be introduced until the next session in March 1998.

65. Mr. RECHETOV said that members should suggest amendments to the concluding observations as each set of draft observations was considered, and that the Chairman should draw up a list of proposed changes at the end.

66. He asked for the Committee to be informed in writing of any changes to the timetable, for instance by regular updates of the programme of work.

67. Surely the necessary secretariat support should have been forthcoming to accommodate the request of the delegation of Burkina Paso?

68. Mr. ABOUL-NASR said in response to a comment by the CHAIRMAN that staffing problems during the holiday season was no excuse. The scheduling of the Committee's session in August had been imposed upon it.

69. Mr. SHERIFIS said that the situation was particularly unfortunate because Burkina Faso was a small, poor, developing country - exactly the sort of country the Committee should be trying to help.

70. The CHAIRMAN explained that the secretariat staff responsible for the Committee also had to work for the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which met at the same time.

Draft general recommendation concerning indigenous peoples (CERD/C/51/MISC.13/Rev.1) (continued)

71. Mr. WOLFRUM introduced the revised draft prepared by himself, Mr. van Boven and Mr. Yutzis. The format had been changed to match that of previous general recommendations, but the substance was unchanged. The substantive paragraphs - 4 and 5 - called upon States parties to protect indigenous peoples' culture, dignity, rights and economic and social development, to give them equal rights to participate in public life and to protect their right to own, develop and use their traditional communal lands.

72. The CHAIRMAN said that the Bureau would determine an appropriate time for further discussion.

The meeting rose at 1 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1228th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 12 August 1997, at 3 p.m.

Chairman: Mr. BANTON

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eleventh to fourteenth periodic reports of Argentina

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.97-17809 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh to fourteenth periodic reports of Argentina (CERD/C/299/Add.11; HRI/CORE/1/Add.74)

1. At the invitation of the Chairman, Mr. Benitez, Mr. Plorutti, Mr. Chelia and Mr. Pereda (Argentina) took places at the Committee table.

2. Mr. BENITEZ (Argentina), referring to major trends in immigration in Argentina and the country's recent social and economic development, said that the traditional policy of welcoming foreigners had made the country into a multiracial and multicultural society, and was the source of both a great deal of diversity along with a number of problems. The population of the Argentine Republic, which stood at 32,615,528 in 1991, was mainly composed of descendants of European immigrants from Spain and Italy, but also from Central Europe and the Middle East. Foreigners accounted for 5 per cent of the total, with half coming from neighbouring countries and half from other regions, especially Central and Eastern Europe which had been offered particularly favourable immigration conditions since 1994. In 1991 a special law had made it possible for some 250,000 citizens of bordering countries (Bolivia, Brazil, Chile, Paraguay and Uruguay) to obtain the status of legal residents.

3. Since 1989, Argentina had experienced a profound transformation of its economy along with far-reaching institutional reforms, which had been carried out in a spirit of democracy and had heavily influenced the social and economic situation of its inhabitants. That had led to strong economic growth, which had stood at around 8 per cent for the first quarter of 1997, as well as a remarkable improvement in the national human development index. On the other hand, President Menem had recently been obliged to launch a major social plan to fight unemployment, which was reaching unusually high levels.

4. Turning to matters of direct concern to the Committee, he reaffirmed that the Argentine Government condemned and combatted all discrimination, and in particular racism, as the most flagrant negation of human rights and fundamental freedoms, and xenophobia. It also strived to protect the rights of ethnic, religious, social and linguistic minorities and advocated the concept of unity within diversity. Argentina was committed to a policy of eliminating all forms of racial discrimination and promoting of harmonious relations among all races. To achieve that, it had undertaken a constitutional reform in 1994, which was described in the report under consideration, and in particular in the section on article 2.

5. He recalled that the Convention was ranked equally with the Constitution, as were the numerous international human rights instruments ratified by Argentina and listed in document HRI/CORE/1/Add.74 (paras. 80 and 81), and that it took precedence over national legislation. International instruments were interpreted in Argentina solely on the basis of their own provisions, without reference to any other legal sources and separately from the acts giving them force of law domestically.

6. Mr. PLORUTTI said that Argentina had established two bodies, the Office of the Under-Secretary for Human Rights within the Ministry of the Interior, and the Office of the Under-Secretary for Human Rights at the international level, under the Ministry of Foreign Affairs, International Trade and Worship. The numerous programmes and activities of the former body were presented in detail in the core document (HRI/CORE/1/Add.74, para. 50), while the latter body played an important role in the domestic application of international human rights standards (see HRI/CORE/1/Add.74, paras. 51 to 53). The new National Institute to Combat Discrimination, Xenophobia and Racism (INADI) part of the Ministry of the Interior, undertook practical measures to combat those evils (HRI/CORE/1/Add.74, paras. 56 and 57). The Argentine Government had set up a commission of inquiry to shed light on Nazi activities in the country during the Second World War and their post-war consequences, the commission had been given broad powers to fulfil its mission and one of its duties was to report any act which was clearly of a criminal nature.

7. Mr. PEREDA (Argentina) said that Argentina, with an indigenous population numbering between 450,000 and 550,000 (or about 1.5 per cent of the total) belonging to 16 ethnic groups in 12 provinces, steadfastly protected its indigenous communities. In the same spirit, it fully participated in the activities of all international and especially inter-American bodies dealing with indigenous affairs. Argentina was further more a member of the Governing Board of the Fund for the Development of the Indigenous peoples of Latin America and the Caribbean.

8. Through the constitutional reform adopted in 1994, Argentina had recognized the ethnic and cultural prior existence of the indigenous peoples of Argentina, the ethnic and cultural diversity of those peoples, the legal personality of their communities and the possession and common ownership of the lands traditionally occupied by them. It had tried to ensure that their knowledge would be passed on thanks to bilingual and cross-cultural education, and to preserve their heritage by declaring their lands to be neither inalienable, nor transferable, nor subject to lien, distraint or taxation, while at the same time arranging for the future transfer of them of sufficient land of good quality to ensure their development and participation in the management of natural resources.

9. On 25 October 1996, in Chubut province, the President of the Republic had launched the National Plan for Indigenous Communities, and on the same occasion had announced the transfer of 250,000 hectares of inalienable lands to the Mapuche communities. The plan was based on the hand-over of good quality land under a project funded by the National Institute of Indigenous Affairs, legal recognition of the indigenous community's own methods of organization and administration, and the development of an educational programme aimed at strengthening the indigenous communities' identity, by eliminating cultural barriers and by facilitating access to social and economic programmes offered by the State and by various organizations. The educational programme would serve several priority objectives, including the development of bilingual and cross-cultural education, the training of bilingual indigenous teachers, and the provision of vocational training for indigenous people. The programme was funded from the national budget and from a special $5 million credit granted by the Inter-American Development Bank.

10. A comprehensive development programme had also been implemented for the department of Ramón Lista (Formosa province), where most inhabitants belonged to the Wichi community and which was the poorest department in the country. Argentine provinces with indigenous populations had on the whole made considerable headway in terms of both legislation and services. The progress was especially significant in Formosa province, where more than 400,000 hectares of land had been transferred to the indigenous peoples. Steps were also under consideration to legalize the situation of lands occupied by indigenous communities in the provinces of Chaco and Misiones.

11. In March 1997, the Argentine Government transferred to the Kolla community of Salta province 125,000 hectares of land purchased for that purpose by the State at a cost US$ 5 million. In the same province, there was currently a legal dispute between a United States company, Seabort, and the Kolla communities, who were legally occupying lands received partly from the State and partly from the San Martín de Tartagal company, which had transferred the land to them before it had been taken over by Seabort. The land had incorrectly been included on the list of San Martín de Tartagal assets which had been sent to Seabort. The National Institute of Indigenous Affairs was acting as a mediator in the dispute, and had succeeded in securing the intervention of the Public Prosecutor's office to guarantee the full exercise of the Kollas' rights to the land.

12. With respect to the disputes involving the Mapuche authorities of Aigo de Catalán, Puel and Currumil, the Mapuche authorities of Zalazar, Calfinahuel, Caitruz and Ñanchucheo, and the Pulmarí Public Body (CIP), the competent authorities were trying to find a solution to permit the indigenous communities to exercise fully their historical rights to the land exploited by the CIP. At the same time, they were attempting to determine the responsibilities of the CIP, which had been set up partly to foster the social and economic development of the indigenous communities of the region by means of paid agricultural and other activities. The CIP might eventually have to pay compensation to the indigenous communities affected. In February 1996, the Neuquén workers' association and the Mapuche organizations' coordination bureau had also brought the case before the International Labour Organization. The Argentine Government and the Government of Neuguén province had established a mediation board to settle the disputes arising among the various communities, and between certain communities and the CIP as quickly as possible. So far, the board had met three times, and had taken note of the indigenous communities' claims. Furthermore, the National Institute of Indigenous Affairs had concluded agreements with the provinces of Chubut, Jujuy, Misiones, Formosa and Neuquén, under which it provided the technical assistance required to map out lands in the public domain inhabited by indigenous communities.

13. Programmes had been launched to facilitate indigenous communities' access to education while respecting their cultural identity. The programmes, which covered some 800 schools with 30,000 schoolchildren between the ages of 5 and 17, included the teaching of indigenous languages. Furthermore, the National Institute of Indigenous Affairs, supporting the initiatives of the Ministry of Education, had granted nearly 1,000 scholarships to train indigenous teachers who would be capable of providing bilingual and cross-cultural education.

14. The CHAIRMAN, speaking as a member of the Committee, noted with satisfaction that Argentina, a democratic country, had achieved progress in the economic field and that the Argentine Government considered racial discrimination to be incompatible with both democracy and economic progress. He also thanked the delegation for providing plentiful supplementary information in its preliminary observations on the implementation of the Convention.

15. Mr. DE GOUTTES (Country Rapporteur) noted with satisfaction that Argentina's report was in conformity with the Committee's guidelines for the form and content of reports, and that the Argentine Government had submitted a core document containing demographic statistics and data on social and economic indicators, as well as information on the legal framework for the protection of human rights. He had hoped that the Argentine delegation would, in its oral presentation - which had otherwise been excellent - add to the information given in the report on the political, economic and social situation in Argentina and to that available in the press, by commenting on the difficulties caused by rising poverty, corruption, crime and insecurity, and the question of the independence of the judicial system. While those issues were not directly related to the Convention, they could help to explain many situations in which discrimination occurred.

16. Regarding indigenous populations, the information given in paragraphs 14 to 28 of the report was very useful, especially concerning the sizes of the various communities, the impact of the constitutional reform and Act No. 23 302, and the action programmes of the National Institute of Indigenous Affairs and the National Institute to Combat Discrimination, Xenophobia and Racism. He noted with satisfaction that the Argentine President had launched a national plan in favour of indigenous communities. How were indigenous peoples represented within the National Institute of Indigenous Affairs? Noting with interest the Institute's activities in the areas of rural development, culture, health care, stockbreeding and ancestral lands on behalf of the Wichi community in El Sauzalito and elsewhere in Chaco province, he wondered whether similar steps had been taken in other municipalities. Pointing out that the report did not contain the information that the Committee had requested in 1991 on the extent of representation of indigenous populations in the Congress, the administration, the police and the judiciary he said would welcome more information in that respect.

17. As for the very sensitive question of the transferral of land ownership to indigenous populations, he asked the Argentine delegation to provide more details concerning the land dispute between indigenous communities in Salta province and the San Martín de Tartagal Company. According to the press and indigenous representatives, over 100,000 hectares were involved, and there had been judicial proceedings. The European Parliament, which had been informed of the case, had reportedly adopted a resolution in early July 1997. Did the Government plan to intervene to settle the dispute?

18. He further asked about the scale of the migration of indigenous and rural populations to major cities, the resulting problems in suburban shanty towns, such as crime, drug addiction, prostitution and trafficking, and the problem of street children, which the Government had mentioned in the report considered by the Committee on the Rights of the Child on

10 and 11 October 1994 (A/51/41). Paragraph 29 of the report referred to Decree No. 1033/92, under which 250,000 nationals of neighbouring countries living illegally in Argentina had been granted permanent residence permits. However, paragraph 31 indicated that the decree had lapsed. What system currently applied to immigrants who had since that time illegally entered Argentina? Did the system differ depending on whether the immigrants were nationals of Mercosur States or of other countries? He also wondered whether any bilateral agreements such as the one concluded with Bolivia had been negotiated with other countries of the region.

19. He pointed out that the Bill amending General Act No. 22 439 on immigration had elicited strong reactions from human rights organizations, the Catholic Church and several neighbouring countries. Even some members of the Government had protested because of the excessively restrictive nature of the Bill, which they considered xenophobic, unconstitutional and contrary to the Mercosur agreement. It appeared from artic'es in the press and documents he had been sent by the Argentine Permanent Mission in Geneva that one of the most criticized provisions of the Bill offered monetary rewards to anyone reporting illegal immigrants to the authorities. It was that denouncement incentive which had been most heavily criticized. According to the newspaper La Nación, such anti-immigrant legislation reflected a tendency that was not unique to Argentina, and that followed a logic based purely on economic considerations and the laws of the international market, which were increasingly taking precedence over humanistic concerns and human rights. Furthermore, the tendency was reportedly due to the reactions of the most disadvantaged Argentine citizens, who were living in conditions of poverty similar to those of the immigrants, and who perceived the latter as a threat to their employment and security. The Catholic Commission on Migrations had described the situation as a war of the poor against the poor. Such tendencies, which reflected an increase in xenophobia, were alarming. Could the delegation inform the Committee of the current status of the bill? Was it true that the President himself had requested that the most criticized provisions of the bill be removed?

20. With regard to anti-Semitism, in 1991 the Committee had noted, during its consideration of the tenth periodic report of Argentina, that there had been no mention of that question in the report, although there was a large Jewish community in Argentina (300,000 people in 1991), the country had a history of anti-Semitism, and discrimination had persisted in some areas, one example being the systematic exclusion of Jews from some major institutions such as the armed forces (paragraph 55 of the Committee's concluding observations on the tenth report of Argentina). With the exception of the judicial case mentioned in paragraph 40, the report under consideration did not deal with that question either. And yet a large demonstration had been held on 18 July in Buenos Aires to protest against crimes which had gone unpunished and judicial delays in the inquiries into the attacks in July 1994 against the Argentine Jewish Mutual Aid Association and on 17 March 1992 against the Israeli Embassy. Could the Argentine delegation inform the Committee regarding the status of those inquiries and any legal action which might have been taken following those attacks, and regarding other anti-Semitic incidents reported in the press, in particular the desecration of Jewish tombs reportedly committed on 20 July 1997 at the Villa Clara cemetery (Entre Ríos province).

21. With regard to the application of article 2, the report stated that, with the reform of the Constitution in 1994, human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination, had been given preferential ranking, second only to the Constitution. It would be useful to know the legal consequences of that preferential status. Did Argentina recognize the so-called "monistic" system only with respect to human rights treaties, and could those treaties be invoked directly by individuals in court, even when they were not directly applicable, as was the case with the Convention? What was the situation of the Laotian refugees, who had arrived in Argentina between 1970 and 1980 and had wanted to return to their country but had been unable to do so for lack of financial resources?

22. Regarding article 4, paragraph 37 of the report indicated that Act No. 23 592 of 21 August 1988 increased the penalties provided under the Penal Code for racially inspired crimes and made it possible to combat extremist organizations advocating racist ideologies. That raised two questions, which had already been brought up in 1991 during consideration of the preceding report. Firstly, even though racist intent was considered an aggravating circumstance for all offences, that did not obviate the need to declare the offences explicitly mentioned in article 4 of the Convention punishable by law. Could the Argentine delegation specify what other provisions of the Penal Code penalized racist acts in all their forms? Secondly, it was regrettable that the report did not give more examples of sentences that had been handed down or cases that had been brought. That information had been requested during consideration of the preceding report, along with information on extremist groups that incited racial discrimination. Indeed, the two cases referred to in paragraph 38 of the report were too general and did not specifically concern racial discrimination. On the other hand, the case of retired General Suarez Mason, who had been convicted of incitement to racial hatred (paragraph 40) was of great interest, as the judge had given precedence to the right to protection against racial insults over the right to freedom of expression. Lastly, it would be useful if the Argentine delegation could give details of the activities of the Ombudsman, or "Defensor del Pueblo", whose post was established in December 1993, and those of the Ombudsman designated in October 1985 by the Buenos Aires municipal authorities, specifically indicating the number of cases of racial discrimination handled by both.

23. The information on article 5 was extremely succinct, as none of the rights enumerated in it were subject to restrictions in Argentina, except for the right to vote. He asked whether the bill to grant paid leave to Muslims for certain religious holidays, as had been done for Jews (paragraph 42) had been definitively adopted, and whether such rights had been extended to other religious communities as well.

24. The information provided on article 6 (paragraphs 45 to 50) was useful but insufficient, as there were no statistics on complaints, prosecutions and trials relating to racism, on amparo proceedings initiated since the entry into force of the 1994 constitutional reform establishing that possibility, or on the number of complaints received by the National Institute to Combat Discrimination, Xenophobia and Racism.

25. Regarding article 7, the report contained useful information on the activities carried out in various fields by the National Institute of Indigenous Affairs. The projects carried out for the Wichi people in the municipality of El Sauzalito provided an excellent example. Had any similar experiments been carried out elsewhere in the country? On the other hand, information was lacking regarding practical action taken by the National Institute to Combat Discrimination, Xenophobia and Racism, established in 1995, and by the National Anti-Discrimination Programme, which had been set up to support the work of non-governmental organizations in the area of popular education through "urgent measures intended to provide an immediate response to an act of discrimination" (paragraph 54). While that was an original initiative, the Committee should be informed of the way in which it was applied in practice.

26. The human rights education programmes, introduced by the National Promotion Directorate of the Office of the Under-Secretary for Human and Social Rights, working under the Ministry of the Interior, were of great interest. It would be useful to provide the Committee with some practical examples of their application in two key areas, which were the training of personnel responsible for law enforcement, who were most often in contact with people in difficulty or most excluded from society, and the dissemination of the Committee's periodic reports and its concluding observations.

27. Finally, he asked whether the Argentine Government was planning to make the declaration referred to in article 14 of the Convention concerning communications from individuals.

28. Mr. SHERIFIS noted that international human rights instruments had been given constitutional rank under the revised Argentine Constitution. If that actually meant that in the event of a conflict between the International Convention on the Elimination of All Forms of Racial Discrimination and another treaty, the provisions of the Convention would prevail, then clearly that was a welcome development.

29. Concerning the fundamental rights guaranteed to all "inhabitants" of the Argentine Republic, which included both nationals and foreigners (para. 4), did that mean that they were all entitled to vote and to stand in legislative and municipal elections, as was the case in some, though all too few, countries? What were the precise functions and composition of the National Institute to Combat Discrimination, Xenophobia and Racism (INADI)? What was the relationship between that body and the National Anti-Discrimination Programme? Were they separate bodies, or was one dependent on the other, and if so, then which was the subordinate one? Decree No. 232/92 had done away with reservations applying to documents concerning Nazi criminals, and had ordered that such documents be made available to the General Archives of the Nation "within 30 days" (para. 11). Could the Argentine delegation confirm that the decree had been applied within that time frame.

30. The recognition of the indigenous communities as legal entities resulting from the 1994 reform of the Constitution (paragraph 13a) must have had repercussions, and it would be useful for the Committee to be informed of

them. In that connection, the Committee would also appreciate a confirmation of the spectacular figure quoted for the total land area returned or about to be returned to the Wichi community, namely 1,600,000 hectares.

31. With regard to the situation of immigrants, especially of Bolivian nationals living illegally in the country (paragraphb 32), what had been the outcome after the 120-day deadline set by the Presidents of Argentina and Bolivia as from 19 November 1996 for the completion of negotiations on the subject? With regard to refugees, he welcomed the establishment of the Refugee Eligibility Committee on which the UNHCR was represented (paragraph 34), but he would like, either at the current session or in the country's next report, to receive statistics on the number of refugees registered. What was the meaning of the term "religious communities of some consequence" employed in paragraph 42 of the report, which mentioned paid leave granted to some communities for religious holidays? Was it to be understood that such arrangements were not made for members of other communities, which might be considered of lesser consequence?

32. Only 24 countries had made the optional declaration provided under article 14 of the Convention. Argentina was thus not unusual in that respect. On the other hand, had the Argentine Government initiated a procedure to ratify the amendment of article 8, paragraph 6, of the Convention? If not, it should do so without delay. Finally, he said he would like to know whether the Committee's reports and concluding observations were made public in Argentina.

33. Mr. WOLFRUM praised the Argentine Government for the excellent report it had submitted. It represented a great improvement over the previous report, and demonstrated that Argentina, especially as far as indigenous populations were concerned, was already applying the guiding principles that the Committee was considering for a draft general recommendation (CERD/C/51/Misc.13/Rev.1), especially in relation to indigenous peoples. In that respect, the right to bilingual and cross-cultural education had come to be recognized under the Constitution (paragraph 17), but it would be useful to have information on the number of indigenous groups and children receiving such education, as well as the financial resources employed.

34. Article 75 of the Argentine Constitution provided for the return of land to indigenous communities. However, the figures provided by independent sources did not at all correspond with those given in the report of Argentina and its annex, especially with respect to the area of land transferred in Formosa province to the Wichi, Toba and Chorote communities. Had the indigenous peoples who made their living from fishing been consulted before the decision was taken to change the course of the Comallo River? He would also like more details on the incidents which had occurred between the Mapuche community and a major corporation, and on the progress made in implementing certain programmes for indigenous peoples. While the return of land to indigenous communities could be said to be first and foremost dependent upon the proper functioning of an independent judiciary, it was worth noting that the report provided no information in that respect.

35. According to paragraph 17 of the report, article 75 of the Constitution stipulated that "Congress shall ensure the participation of indigenous peoples in the management of their natural resources and other matters concerning them" and that "the provinces shall be entitled to exercise these powers concurrently". The German Constitution, which had similarly assigned a concurrent role to the provinces in certain fields, had been changed, because it had been found that the exercise of power in such circumstances was extremely dangerous in the absence of sufficient supervision.

36. With regard to the question which had already been raised concerning the declaration under article 14 of the Convention, he would like confirmation that the Parliament had opted not to follow up an initiative in favour of a declaration, though it had already been approved. On the whole, the new Argentine Constitution was in many ways exemplary. Just the same, it would be worth having more detailed information on its practical application, as implementation was always more difficult in practice.

37. Mr. VALENCIA RODRIGUEZ noted that action taken to combat racial discrimination in Argentina was based on international human rights instruments, including the Convention. Since Argentina appeared to apply the monistic system, it would no doubt be possible to invoke the Convention directly in court. If that was so, then perhaps the Argentine delegation could refer to cases in which that had occurred.

38. He noted with satisfaction the interpretation that the Supreme Court of Justice had given to the term "inhabitants", which referred to all persons residing in the national territory, as mentioned in paragraph 4 of the report. On the other hand, some explanation was required concerning the interpretation by the same Court of the application of the principle of equality before the law between nationals and foreigners, mentioned in paragraph 8. What was covered by the concept of reasonably equal circumstances (razonabilidad), and which situations could be considered by the legislature as "different"?

39. Paragraph 10 mentioned the National Institute to Combat Discrimination, Xenophobia and Racism, whose activities were described in paragraphs 48 to 50. He considered that Argentina, by establishing that Institute, had taken a great step forward, and asked whether that body had ever initiated court action, as it had the power to do. If the Institute could begin such action on its own initiative, its usefulness would no doubt be much greater. He noted another very important step forward in paragraph 13 (a): the recognition of the indigenous communities as legal entities, giving Argentina the status of a multi-ethnic and multicultural country. The information provided in paragraphs 20 to 28 concerning the indigenous peoples, their numbers and the measures taken on their behalf was also of great interest. In view of all that remained to be done to improve the situation of those peoples, in the fields of education, employment and especially land ownership, he hoped that the Argentine Government would continue to keep the Committee informed of the programmes undertaken and results achieved.

40. Argentina had to be congratulated for the measures it had taken to legalize the situation of illegal immigrants, as mentioned in paragraph 29, and for the idea of concluding an immigration agreement with Bolivia, as mentioned in paragraph 32. As the period of 120 days starting on

19 November 1996, which had been allowed by the Presidents of the two countries to complete negotiations on that agreement, had long since lapsed, the Argentine delegation might indicate whether an agreement had been finalized or not. The establishment of the Refugee Eligibility Committee referred to in paragraph 34 should be welcomed. It would be useful, however, to know the composition of the Committee and what results it had achieved.

41. With regard to the application of article 4, he noted that an act of 1988 increased the penalties set out in the Penal Code when the offence committed was of a racist or xenophobic nature. While that act clearly was in keeping with article 4, particularly insofar as it repressed genocide, it apparently lacked any specific provisions to apply paragraphs (a) and (b) of the article. However, he noted that federal judge Claudio Bonadio had taken a very encouraging initiative in bringing charges for incitement to racial or religious hatred, while recalling that freedom of expression should not be taken as a licence to make insults. He asked what the ruling had been in that case.

42. With regard to the implementation of article 6, he asked whether judicial and administrative proceedings had been initiated in application of the relevant texts.

43. Mr. ABOUL-NASR said he wanted to differ from Mr. de Gouttes on two questions. Firstly, he believed there was no reason to insist that a country issue the declaration provided under article 14 of the Convention. The declaration was optional, and did not even prove that the country which made it applied the Convention in earnest. Secondly, Mr. de Gouttes had spoken of a past of anti-Semitism in Argentina. His own sources revealed no such phenomenon, and Mr. de Gouttes' statement in essence amounted to an accusation. Did that mean that countries which, for example, considered doubts cast about the number of Jews killed during the Second World War as an offence, or those which intended to seek reparations only for Jewish victims of Nazism, but not for Gypsies or Slavs, should then be accused of practising actual racial discrimination. Regrettable incidents of course took place practically everywhere, including in Argentina. While such acts should be punished, statements as serious as Mr. de Gouttes' were best avoided.

44. Concerning the report under consideration, he was pleased to note the establishment of the Refugee Eligibility Committee, and would like to know more about its activities. Noting that the indigenous peoples had received land - which had not been given but rather returned to them - he asked whether those communities had also received assistance for the exploitation of the returned land, and whether they had been consulted concerning not only the areas involved but also the quality of the land to which they had a claim. A mention had been made of assistance agreements between Argentina and the Centre for Human Rights. What kind of agreements were involved? Had they had any effect, and had the assistance requested actually been provided?

45. Mr. de GOUTTES, claiming a right of reply, noted that he had been criticized for saying that Argentina had had a past of anti-Semitism. That criticism was too serious to be left unanswered. What he had said reflected not his own personal opinion, but that of the Committee itself, as expressed in paragraph 55 of the report submitted to the General Assembly in 1993, in

the following terms: "Noting that Argentina had a history of anti-Semitism, which occasionally produced anti-Semitic incidents, members pointed out that no reference to this aspect had been made in the report."

46. Mrs. ZOU requested some clarification regarding the measures taken for indigenous peoples. She noted that paragraph 25 (h) referred to a health programme for 40,000 indigenous people, and asked what had been done for the 500,000 others - according to the figure given by the delegation - who were suffering inter alia from various infectious diseases. How many hospitals were available to receive that population and how well were they equipped? Both the Government and the delegation reported that measures had been taken to assist indigenous peoples with their land rights. Details had been provided about the land which had already been handed over, but the Committee had not been informed about the lands which were still to be returned, nor about any Government plan or schedule for the transfer.

47. With regard to education, she noted that it had been announced that 800 schools were to be established for over 30,000 schoolchildren, but the Committee did not know what proportion that represented of the overall number of indigenous children of school age. It had not been informed either whether those children would have access to secondary and higher education, all of which was important, as education played a crucial role in development.

48. She thought Mr. de Gouttes' question on the representation of indigenous people in Parliament and the judiciary was altogether pertinent. For her part, she would like to know whether in areas mainly populated by indigenous people the courts used any language other than Spanish, and whether the population had access to interpretation services, which were vital to ensuring the proper administration of justice. Finally, she would like details of the two cases mentioned in paragraph 38 of the report.

49. Mr. GARVALOV asked whether the constitutional provision referred to in paragraph 5 meant that Argentine citizenship was acquired by jus solis or in some other way, and whether any restrictions applied in either case. Paragraph 7 made it clear that foreigners enjoyed the same civil rights as nationals, which was very positive. However, he did not see how anyone could "marry" in a way which was not "in accordance with the law".

50. He noted that, according to paragraph 9, Argentina had proclaimed 17 March as International Day for the Elimination of Discrimination, whereas the United Nations celebrated the International Day for the Elimination of Racial Discrimination, and he wondered whether the difference was due simply to a translation or printing error. He welcomed the establishment of the National Institute to Combat Discrimination, Xenophobia and Racism, which appeared to be capable of combating discrimination on all fronts.

51. According to paragraphs 13 (b), 16 and 19 of the report, the Constitution had been amended in order to provide genuine protection against discrimination. However, those paragraphs did not say whether the new constitutional provisions were applied directly or whether corresponding enabling legislation still remained to be adopted.

52. Paragraph 37 stated that the opinions of extremist or racist organizations were repellent. That was all well and good, but it did not say whether the organizations advocating such ideas were prohibited. He found the ruling mentioned in paragraph 39 disturbing; while the first part appeared to defend the constitutional principle of equality beyond what was required by the Convention, the second part appeared frankly debatable.

53. Finally, the implementation of article 5 was far from satisfactory, insofar as according to paragraph 44 only distinctions made on racial grounds were forbidden, whereas article 5 also referred to distinctions based on colour and national or ethnic origin.

The meeting rose at 6.05 p.m.

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Fifty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1229th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 13 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1229/Add.1.

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GE.97-17820 (E)

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh to fourteenth periodic reports of Argentina (continued) (CERD/C/299/Add.11; HRI/CORE/1/Add.74)

1. At the invitation of the Chairman, the members of the delegation of Argentina took their places at the Committee table.

2. Mr. van BOVEN expressed his appreciation of the report and his hope that the next report would be submitted on time. He associated himself with Mr. de Gouttes' comments.

3. The highly focused attention given in the report and by the Committee to the indigenous peoples was fitting, to the extent that it reflected a major concern of the Committee, which was about to adopt a general recommendation on the subject. Although the size of the indigenous population was very small, the issue invited concern if only on account of the historical reasons that had led to the dwindling numbers.

4. He commended the amendment to the National Constituent Convention referred to in paragraph 17 of the report which expressly recognized the existence of the indigenous peoples prior to the formation of the Argentine State.

5. Despite the extensive discussion of the issue of land and measurement of large tracts of land for restitution to the indigenous peoples, he wished to know which areas of land were to be returned and safeguarded, since the question remained as to the quality of the land and the extent to which the indigenous population had been consulted on the matter.

6. Through personal contact with indigenous groups in Argentina, he had heard allegations that they had been tricked into fraudulent arrangements depriving them of their property rights and leaving them destitute after the courts had failed to serve them justice. There was therefore a need to examine the role of the judiciary in its duty to restore justice denied.

7. He asked whether the Argentine Government had already ratified or planned to ratify ILO Convention No. 169, which dealt specifically with the rights of indigenous and tribal peoples.

8. The Committee had listened with interest to the mandate of the newly-formed National Institute to Combat Discrimination, Xenophobia and Racism (INADI) and looked forward to hearing more about its activities in the next report, for instance whether it was an independent body and was allocated a secured budget.

9. Regrettably, the report had not shed any further light on the terrorist attack against a Jewish organization in Buenos Aires in 1994, and the Committee noted that the lack of any indication of progress in the investigations had given rise to grave concern in Argentina. It was hoped that the next report would correct that situation.

10. He attached great importance to the need for States to make the declaration under article 14 of the Convention and accept the amendment to article 8, paragraph 6 and reiterated the suggestion that the report and concluding observations be publicized in Argentina.

11. Mr. AHMADU requested clarification of the nature of the Constitution, and specifically whether it was unitary, federal or confederal, because it seemed to have elements that were unitary and federal but lacked any confederal characteristics.

12. He asked what exact inferences could be drawn from the statement that Roman Catholicism was the main religion and was protected by the State. Was it the official religion and how and why was it protected?

13. Whereas the question of the admittedly few Argentines of African extraction had been dealt with in previous reports of Argentina in connection with the Argentine Government's position on apartheid - which, it was to be remembered, had not been an obstacle to warm South African-Argentine relations - he wondered what had become of Argentines and immigrants of African descent who had been victims of discrimination in the past. Had they since acceded to administrative positions and prominent positions in fields other than football and boxing? What was their status vis-à-vis the indigenous population, who benefited from commendable efforts on the part of the Government? The practice in Latin America was to include indigenous people from other continents in the category of local indigenous peoples but the question remained whether they were treated as well.

14. He wondered whether equality under the law extended to those who, for one reason or another, enjoyed immunity. Did it mean that equality before the law began only after immunity had been lifted?

15. He asked whether persons of African or Middle-Eastern origin benefited from the liberalization of Argentina's immigration policy and whether they were among those whose immigrant status had been legalized. Although apartheid in its institutional form had disappeared, it might be asked whether elements of the philosophy persisted and whether racist crimes other than acts of anti-Semitism were being prosecuted.

16. The question of equal treatment for religious groups also required clarification, in particular with respect to Muslims, and whether the bill before Congress entitling them to paid religious holidays had been passed.

17. Finally, he expressed some misgivings about what appeared to be an excessive number of institutions and bodies dealing with the issues under discussion.

18. Mr. SHAHI said that the impressive report reflected Argentina's serious approach to its dialogue with the Committee. The measures being taken to restitute land to the indigenous communities, albeit belated, were welcome and in full accord with the Committee's position that the question of land was inextricably bound up with the culture, existence and livelihood of the indigenous communities.

19. In view of the distribution of land that had taken place so far in Formosa province, the members of indigenous communities stood to receive very generous land grants that might prove disproportionate to their share of the total population. Furthermore, it was not clear whether the land was to go exclusively to the Pilagá people, assuming from the statistics in the report that they were the only indigenous people living in the area, or whether other indigenous communities were also to benefit from the measure.

20. Mrs. SADIQ ALI read from an article taken from a 1996 issue of the Indigenous Affairs journal of the International Work Group for Indigenous Affairs reporting on the organized efforts of the indigenous peoples of Argentina at the regional level to prevent the execution of the joint Argentina-Paraguay Hidrovia project. They believed that the project could lead to an ecological catastrophe similar to the famine and drought experienced after the diversion of the Pilcomayo river and should not be started without prior in-depth study. The indigenous people of Argentina sought legal recognition of their claims to land and protection of the ecology and biodiversity of their habitat. Their claims to land that had been expropriated from them were accompanied by a proposal that any subsequent restitution should be commensurate with their proportion to the rest of the population in the area. The outcome of their peaceful protest had been a meeting with Government Minister Torino in September 1996. Further clarification of the present position of the Government with respect to the territorial claims in Gran Chaco as well as its decision on the Hidrovia project would be welcome.

21. Mr. BENITEZ (Argentina) pointed out that the discrepancy between the figures on the land areas and the indigenous peoples in the current report and those given during the presentation of the report was due to the fact that the latter figures were updated statistics provided at Mr. de Gouttes' request. Sizeable tracts of desirable land had been earmarked for restitution to indigenous peoples; with the public attention that the issue had attracted, there might well be a sudden unprecedented swelling of the ranks of the indigenous peoples.

22. In answer to queries on the status of human rights conventions in Argentine law and the order of precedence of the normative provisions of human rights instruments as well as whether they were self-executing, he said that jurisprudence had shown that such rights could be invoked independently of any ancillary laws in which they might be incorporated. Ratification of human rights treaties or conventions by the Argentine Government automatically gave them legal, autonomous and independent validity above and beyond the laws of the country. In the event of conflict, the convention automatically took precedence over domestic law. In the event of conflict between a provision in a convention or treaty and the Constitution, the latter, as the supreme body of law, took precedence. The Supreme Court had, however, ruled that there could be no conflict between the principles enshrined in the convention and a constitutional law or a domestic law, which by constitutional definition enjoyed a lower order of precedence than human rights conventions.

23. Instituting proceedings under amparo was by way of a very simple, brief procedure which had been transposed without any changes into the new Constitution from the old. A person claiming that his constitutional right

had been infringed would have to be heard by a judge, following which the judge would pronounce whether there had been violation or denial of a constitutional right. The procedure enabled judges to determine, expeditiously whether the person bringing the claim had the legal personality required to institute proceedings and whether the right had indeed been violated. The remedy could be sought also in cases of discrimination. Such cases were the only ones in fact in which domestic law might interfere in the constitutional implementation of a human rights convention. It had therefore been recognized that jurisprudence would have to be updated and a change in the attitudes of judges who dealt with that kind of case would have to be sought. To that end, seminars were being conducted for and assistance provided to judges in an effort that included cooperation with other Latin American countries to revise the role of judges in their application of international conventions. It went without saying that the indigenous peoples enjoyed the same right to amparo as any other Argentine.

24. The term "inhabitants" (habitantes) as used in the Constitution had evolved and, in respect of non-discrimination and human rights guarantees, encompassed all persons on Argentine soil.

25. As to the reference to prerogatives of blood or birth in paragraph 5 of the report, it was to be understood that it was rooted in the historical context of Argentina during the time when it had still been part of the kingdom of Spain, when the main forms of discrimination in Argentina had been for reasons of blood or birth. The provision had been introduced in preparation for independence.

26. Regarding the recognition of indigenous communities as legal entities, he explained that under the Argentine system, in order for legal entities to act in a legal capacity, certain procedures were necessary to distinguish them from physical persons. Because of the indigenous communities' different tradition, it had been necessary, in order for them to act collectively and as legal entities, to effect a series of legal reforms and to establish them as legal entities without following the requirements of prior legislation.

27. As to the phrase "religious communities of some consequence", the criterion of "reasonableness" was used to determine which religious communities would be recognized, on the basis of how many adherents they had and what their influence was on other spheres of life. That criterion had a long tradition in international administrative law, as well as in Argentine law, and was intended to ensure that administrative acts were not disproportionate to the legal value they were supposed to be preserving.

28. Regarding the functioning and independence of judiciary, and the problem of statistical information, the Government acknowledged there were shortcomings. It was costly to computerize the legal system, but the process was under way. There were also ongoing projects to facilitate the development and updating of the Argentine body of law in view of the immediate implementation of the international human rights instruments, to which the Centre for Human Rights had contributed.

29. As to the question of provincial and federal competence, the Constitution was a federal one. The provinces had existed before Argentina

came into being as a nation, and 50 years of bloody internal struggles during the nineteenth century over whether a confederation or a unitary State would prevail had led to the triumph of the federal concept. That polemic or dialectic had led to a distinction between the powers delegated by the provinces to the State and the powers vested in the provinces. Lands were not delegated, but belonged to the provinces.

30. There was a liberal current of thinking in Argentina, one that recognized freedom of religion and the equality of religious communities. Although Catholicism had formerly enjoyed constitutional protection, it was not a State religion, and the 1994 reform had removed the requirement that the President had to be Catholic and had allowed those swearing an oath to do so on the Constitution instead of on the Bible.

31. In Argentine case law, racist motivation was considered to be an aggravating circumstance for acts covered by other types of offences, and was not an offence in its own right. Act No. 23,592 of 1988, concerning discriminatory acts, had established a different regime for civil liability for acts committed out of racist motivation. However, the types of offences set forth in the Constitution were covered by the classification of offences under Argentine penal law, and there had never been any case of failing to comply with the Convention in that respect.

32. Racist organizations were indeed prohibited from demonstrating; their acts could constitute minor offences against the anti-discrimination act, whereby they could incur penalties or be liable for compensation, or could constitute more serious offences and be prosecuted as violations of one of the human rights covered in the international instruments. Examples of specific cases would be provided later.

33. With regard to the active and passive electoral rights of foreigners, in some municipalities they could stand for election; there was no distinction between native-born and naturalized Argentine citizens, except for candidates for the presidency, who had to have been born in Argentina, which was a long-standing tradition in Latin America. Anyone standing for election to any office had of course to be a resident.

34. He had no further information on Argentina's intention to make a declaration under article 14 of the Convention.

35. Regarding the archives on Nazi criminals, which had been opened in 1993, the suspicion existed that Argentina had allowed a large number of Nazis into the country following the Second World War, and the Government had decided to lend its full support to shedding light on its conduct at that time. Initially, there had been an administrative act ordering the opening of the archives but the situation had proved much more complicated and required more resources and effort than had originally been thought necessary. That was because of the state of the archives, the amount of time that had elapsed, and a series of administrative shortcomings. The archives were piled up in different locations and had never been catalogued or computerized; the task was enormous. It also involved the individual's right to privacy; and to open a file marked "secret" or "confidential" presented administrative problems. To resolve those problems and fulfil the Government's commitment, a commission

had been established within the Ministry of Foreign Affairs, which had spent more than a year working with experts from Israel and the United States. The commission was continuing its work, with additional support from both the private and public sectors.

36. Mr. PLORUTTI (Argentina) said that, although ILO Convention No. 169 concerning indigenous and tribal peoples had been approved by Parliament, it had not yet been ratified. The Government was still determining how its application would function within the domestic legal system, as there had been some problems and no unanimity on the subject. The Convention had been ratified by only eight States to date; it was encountering great resistance. Argentina had wished to make certain reservations to the Convention, but that process was not allowed. However, the Government did not foresee any obstacle to its future ratification.

37. Mr. BENITEZ (Argentina) said that Convention No. 169 was one of the current topics of debate by the ILO on the strengthening of monitoring mechanisms of eight fundamental ILO conventions, which dealt with the principles of discrimination, forced labour, child labour, and freedom of negotiation and trade union freedom. The ILO was trying to reach an agreement on those principles and the strengthening of those mechanisms, independently of the conventions themselves. Argentina had favoured a declaration on the fundamental rights of workers and expanding the scope of the mechanisms. It might, however, take an additional one or two years to conclude the debate.

38. Mr. PLORUTTI (Argentina) said the 1994 and 1992 attacks on the Argentine Jewish organization and Israeli Embassy in Buenos Aires constituted acts of international terrorism that had affected Argentine society as a whole. Investigations of those events, and of a possible connection between the two, were under way and were a priority of the Government; eventually one judge might be assigned to both cases. The possibility of closing the case involving the Israeli Embassy had never been contemplated. The slow pace of the investigations was due to the complexity of the cases; the Argentine legal system functioned freely and efficiently, and was not in question.

39. Two of the five cases involving profanation of Jewish cemeteries had been solved and the perpetrators sentenced; investigations continued into the three other cases. Following the 1988 anti-discrimination act, the number of anti-Semitic publications had been significantly reduced.

40. Regarding the problem of migration, according to the Parliamentary Information Office, 147 legislative drafts had been received. One draft had been criticized by the Catholic and Protestant Churches and other organizations for its language on the compensation of foreign workers, but it had been put forward, not by the Executive, but by Socialist deputies, and had subsequently been withdrawn.

41. The European Parliament had submitted a draft resolution on the problems of indigenous persons in the San Andrés plantation of Las Collas and on the Mapuches in Pulmarí. The draft, which was under study, would be submitted to the plenary in September 1997, and the Government was constantly providing information on the topic to the Argentine mission in Brussels.

42. Act No. 24,757 of 20 December 1996, which had been adopted since the drafting of the fourteenth periodic report, had proclaimed three paid religious holidays for Muslims.

43. As to whether either the national Ombudsman or the Ombudsman of Buenos Aires had submitted any cases of discrimination, only one such case had been found, in which it had been recommended that the Municipality of Buenos Aires should penalize acts considered to be in violation of article 5 (f) of the Convention. The case had involved allegations that some discotheques were barring entry to youths with particular racial traits, although what those traits were was not known.

44. Mr. BENITEZ (Argentina) said that case demonstrated clearly that the Ombudsman had applied the Convention, which he had cited rather than any national law.

45. Mr. PLORUTTI (Argentina) said that the phrase "urgent action" referred to actions constituting an immediate response to discriminatory acts; it apparently had a different meaning in Argentina from what it meant in European administrative procedures. There were no reports of such cases, but more information would be furnished in the next report as to whether it was being applied or not.

46. The National Institute to Combat Discrimination, Xenophobia and Racism (INADI), within the Ministry of the Interior, had replaced the pilot National Anti-Discrimination Programme and reported directly to the Minister.

47. The Refugee Eligibility Committee (CEPARE) was composed of immigration officials and of representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Foreign Ministry. It was currently compiling statistics, but UNHCR estimated there were some 12,000 refugees in Argentina. That figure could not be corroborated, however, as refugees were under no obligation to report on changes in their residence status; they could acquire citizenship once they had fulfilled the same requirements as any other foreigner residing in Argentina. The average number of requests for a change in status was 18 per month; more than 90 cases had been considered as of March 1997, of which 75 had been resolved. He had no information on cases whose validity had not been recognized by CEPARE, although several appeals had been resolved by the Office of the Under-Secretary for Human and Social Rights.

48. Mr. BENITEZ (Argentina) said that, with regard to the Lao repatriates, a UNHCR committee was working with the Argentine Catholic Commission for Migration to find the appropriate conditions and location for their repatriation; it was not an economic problem.

49. Mr. PEREDA (Argentina) said that the 1994 amendments to the Constitution had marked a radical change in the rights of indigenous peoples. The previous version, dating from 1853, had merely called upon Congress to maintain peaceful relations with the Indians and to promote their conversion to the Roman Catholic religion. The amendments had been adopted as a result of extensive lobbying by indigenous peoples who now, for the first time, had an official special status and were being registered.

50. He had brought a copy of resolution 48/11 of the Secretariat for Social Development for members to consult. The resolution was a crucial one which showed how minority rights were being protected in Argentina. ILO Convention No. 169 had been incorporated into Argentine law in Act No. 24,071.

51. Members had asked about the participation of indigenous peoples in public institutions. There were many different tribes and indigenous peoples in Argentina, living in scattered and remote settlements. It was therefore extremely difficult for them to make their views known and to participate in public institutions. The National Institute to Combat Discrimination, Xenophobia and Racism (INADI), of which he was the Director, had begun a programme of consultation with indigenous peoples, with a budget of US$ 500,000. A regional meeting was to be held in Buenos Aires at the end of August, in which indigenous peoples were invited to propose changes to the law concerning bilingual education, land use and natural resources as it affected them, as well as the work of the Institute.

52. Mrs. Sadiq Ali had asked about consultation with indigenous communities about the proposed Hidrovia project. A meeting had taken place in June 1997, in which communities had been consulted about the possible impact of the new project on their lives.

53. Another question had concerned the transfer of 400,000 hectares of land to indigenous communities in Formosa province. That had been a pioneering step in Argentine legislation, but it had happened five years before, so it had not been considered necessary to mention it in the report. Also, the decision had been made by a provincial government rather than the central Government. The Government paid for land surveys carried out to determine how much land should be transferred to the indigenous community. Three other agreements had been concluded so far in the provinces of Jujuy, Santa Fe and Misiones.

54. The Institute carried out preparatory work in the community before land was transferred. The indigenous communities in each area were registered as legal personalities and the land they claimed was accurately measured. There might be inconsistencies in the information which the delegation had given the Committee, owing to a failure to include either earlier transfers, or land which had not yet been handed over, but where the preparatory work he had just mentioned was under way.

55. As a result of the constitutional reforms, new regulations were needed to govern the transfer of land into communal ownership and to ensure that it was not "alienable, transferable, or subject to lien or distraint" in accordance with the new provisions of the Constitution. It was a historic exercise of reparation for the injustices committed in the name of the old 1853 Constitution and was evidence of the Argentine Government's recognition of the multicultural and multiethnic nature of Argentine society.

56. Members had asked about a land claim on the San Andrés estate in Salta province. The estate had been claimed by indigenous people, but no land transfer was possible as yet because the case was still the subject of legal proceedings. The claims of the indigenous communities concerned were always taken fully into account in accordance with the law. Another land claim on the Santiago estate had been approved, and the actual transfer would take

place in the next two years. Another group of communities which did not currently benefit from the Institute's indigenous people's programme was currently in consultation with the World Bank and other interested institutions. The results of the consultations would help to determine the representation of indigenous people on Argentine and international bodies.

57. A great deal of work had been done in the field of education for indigenous peoples in El Sauzalito and Impenetrable. One school had risen to third place in the province in the subjects of mathematics and language comprehension because of the extra teaching assistance which had been provided in school. Other programmes for indigenous schoolchildren were being developed in Formosa and Salta provinces and in Patagonia. Education was the responsibility of the provincial government: the Institute was drawing up agreements with the provinces to ensure that indigenous children had access to bilingual and multicultural education. However, there were not enough trained teachers from the indigenous community, and the Institute was providing support for secondary and university students in order to increase the supply of trained indigenous teachers in the next few years. A teacher training college had already been set up for teachers from the Toba and Mocoví peoples, and the first teachers would graduate soon.

58. Mrs. Zou Deci had asked about health provision for indigenous people. Argentina's primary health-care system covered the whole country, and health auxiliaries who spoke indigenous languages had been employed in the provinces of Chaco, Salta, Formosa and Misiones. Health care was the responsibility of the provinces, although the national Government provided resources and incentives to help indigenous people.

59. Mr. BENITEZ (Argentina) said that economic and social statistics and information on problems such as drug addiction, child prostitution and street children had not been included in the report because they did not seem directly relevant to racial discrimination.

60. Mr. van Boven had asked about cases where indigenous peoples had been tricked into giving up their legitimate property rights. Cases of that kind had been dealt with under the Argentine Civil Code then prevailing, for instance the provision which stated that a deal concluded when one of the participants was under the influence of alcohol was not valid in law. No information had been provided because they did not seem to be cases of racial discrimination.

61. He thanked the Committee for the interest it had shown in Argentina's report and the pertinent questions which members had raised.

62. Mr. WOLFRUM thanked the delegation for its replies and hoped that more information on a number of points would be included in the next periodic report. Paragraph 17 of the report quoted the revised Constitution, describing the new rights enjoyed by indigenous populations, but how had the new provisions changed the situation of indigenous peoples in practice?

63. He would welcome more information about the delegation's statement that all judges were independent. In particular, which authority was responsible for appointing judges, and who had the power to dismiss them?

64. He asked for more information and statistics about the economic and social situation of indigenous peoples, which would give some idea of their position in Argentine society. It would also be useful to know how their situation was changing as a result of the recent reforms.

65. Although the delegation had stated that, in the past, land transfers to indigenous people had not been recorded, some indication of how many there had been would be helpful to the Committee, as would more details of the preparatory work carried out by the Government among indigenous peoples before land was transferred.

66. Mr. ABOUL-NASR asked for copies of two texts mentioned by the Argentine delegation - the first being the declaration on indigenous peoples and the second the legislation on anti-Semitism.

67. Mr. SHERIFIS thanked the Argentine delegation for its cooperation. He hoped that more information on the restitution of lands to indigenous peoples would be included in the next periodic report.

68. Mr. de GOUTTES (Country Rapporteur) thanked the Argentine delegation for its report, its introductory statement and its replies to members' questions. The delegation had emphasized the unique nature of the land transfers which had been undertaken in reparation for the injustices of the past.

69. He hoped that the following points would be covered in more detail in Argentina's next periodic report. He hoped to hear more about the consequences of the measures taken to improve the situation of indigenous peoples, particularly those concerning land ownership. He would also welcome more information about the implementation of the National Anti-Discrimination Programme of the Ministry of the Interior, particularly any urgent measures which were being taken. Another area of interest was the role of the Ombudsman in the prevention of racial discrimination.

70. He asked for the text of the provisions of the Penal Code which implemented article 4 of the Convention and for other relevant legal statistics, including the number of complaints made to the National Institute to Combat Discrimination, Xenophobia and Racism and the measures taken against racist organizations.

71. He would further like to hear about the role of the judicial authorities and of any difficulties encountered in the operation of the judicial system, particularly if they had implications for cases involving indigenous peoples.

72. Finally, he would like to hear more about the human rights training given to law enforcement officers and steps taken to familiarize them with the provisions of the Convention.

73. The CHAIRMAN thanked the Argentine delegation for its participation in the dialogue with the Committee, which he hoped would continue. The Committee had thus completed the first stage of its consideration of the eleventh to fourteenth periodic reports of Argentina.

The public part of the meeting rose at 12.15 p.m.

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Fifty-first session

SUMMARY RECORD OF THE 1230th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 13 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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Draft concluding observations of the Committee concerning Denmark and Iraq

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

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GE.97-17828 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations of the Committee concerning the thirteenth periodic report of Denmark (document distributed in the meeting, in English only: CERD/C/51/Misc.17 - future CERD/C/304/Add.35 - future CERD/C/51/CRP.1/Add.14)

Paragraphs 1-4

1. Paragraphs 1-4 were adopted.

Paragraph 5

2. Mrs. SADIQ ALI requested clarification of the meaning of the word "insertion" in the sentence "... to improve their insertion into the labour market".

3. The CHAIRMAN informed Mrs. Sadiq Ali that the expression, which was widely used in Europe, was generally understood to mean the fact of increasing the chances of finding a job.

4. Mr. ABOUL-NASR took the view that there was no reason to use that expression solely on account of the fact that it had become established in Europe, since the Convention was of worldwide application.

5. The CHAIRMAN suggested replacing the word "insertion" by the word "entry", which had widespread acceptance.

6. It was so decided.

7. Paragraph 5, as amended, was adopted.

Paragraphs 6-8

8. Paragraphs 6-8 were adopted.

Paragraph 9

9. Mr. ABOUL-NASR proposed that the first sentence should be deleted, since he could see no point in again noting with appreciation the fact that Denmark had made the declaration envisaged in article 14.

10. Paragraph 9, as amended, was adopted.

Paragraph 10

11. Mr. ABOUL-NASR proposed that the words "... in the European Year against Racism" should be replaced by "... in international efforts against racism".

12. Mr. WOLFRUM supported the proposal.

13. Paragraph 10, as amended, was adopted.

Paragraph 11

14. Mr. ABOUL-NASR wondered whether, at the current stage, there was any point in expressing regret that the report did not provide any information on the implementation of article 3 and asked whether paragraph 18, which came within the section "Suggestions and recommendations", was not sufficient to express that idea.

15. Mr. WOLFRUM recalled that the Committee customarily expressed its concerns about a particular question prior to formulating suggestions and recommendations about it.

16. Mr. SHAHI considered that paragraph 11 should include a specific reference to the information that the Committee had requested regarding the application of article 3.

17. Mr. WOLFRUM stated that the members of the Committee had inquired about the methods of allocating housing on the outskirts of Copenhagen, which seemed to them to be detrimental to immigrants, and about the placing of immigrants' children in special schools which were far away from their homes.

18. The CHAIRMAN suggested that the text of the paragraph might be replaced by the following: "The Committee regrets that the present periodic report does not provide sufficient information as previously requested on the implementation of article 3 of the Convention, with particular reference to the allocation of housing and requirements to attend special schools."

19. It was so decided.

20. Paragraph 11, as amended, was adopted.

Paragraph 12

21. Mr. ABOUL-NASR proposed that the word "liberal", describing the reaction of the authorities to the dissemination of racist ideas over the radio, should be replaced by the word "lenient".

22. Mr. WOLFRUM proposed that the words "Firstly" and "Secondly" should be added at the beginning of the second and third sentences of the paragraph in order to highlight the two points that particularly concerned the Committee with regard to the implementation of article 4.

23. The CHAIRMAN read out the paragraph as amended orally, together with some drafting changes: "Although the amendment of section 266 (b) of the Penal Code assists the more effective implementation of obligations deriving from article 4 of the Convention, two concerns remain. Firstly, the prosecuting practice is focusing too much on propaganda activities while other means of disseminating racist ideas are treated as minor offences; this gives a restrictive interpretation to the provisions of this article. Secondly, the Committee expresses particular concern at the lenient attitude towards the dissemination of racist ideas over the radio. It is also noted that organizations using racist propaganda to incite racial discrimination are not declared illegal and not prohibited."

24. Paragraph 12, as amended, was adopted.

Paragraph 13

25. The CHAIRMAN requested clarification of the word "minority".

26. Mr. WOLFRUM said that the word, as used in the context, referred to the native Greenlanders who, although in a majority in Greenland, were a minority within the Kingdom of Denmark. He pointed out that Greenland and the Faeroe Islands enjoyed a special status of autonomy by virtue of which, among other things, they were not members of the European Union.

27. Mr. RECHETOV expressed the view that the Committee should display caution with regard to the political and territorial status of Greenland and the Faeroe Islands and therefore proposed that the word "minority" should be deleted.

28. It was so decided.

29. Paragraph 13, as amended, was adopted

Paragraph 14

30. Mr. WOLFRUM explained that the word "residents" referred to Danish citizens living in Denmark whose parents were immigrants or asylum seekers and who had had to be given a Danish first name by virtue of the law in question.

31. Following an exchange of views between Mr. ABOUL-NASR, Mr. VALENCIA RODRIGUEZ, Mr. SHAHI, Mr. AHMADU and the CHAIRMAN, the CHAIRMAN suggested that the paragraph should be worded to read: "Concern is expressed that a rigid implementation of a law of 1981 on names has a discriminatory effect on residents of non-Danish ethnic or national origin."

32. It was so decided.

33. Paragraph 14, as amended, was adopted.

Paragraph 15

34. Paragraph 15 was adopted.

Paragraph 16

35. Following a discussion between Mr. WOLFRUM, Mr. DIACONU, Mr. ABOUL-NASR, Mr. SHAHI, Mr. AHMADU, Mr. SHERIFIS and Mr. RECHETOV regarding the exact status of the Convention in Greenland and in the Faeroe Islands which, although forming part since 1953 of the Kingdom of Denmark, enjoyed internal autonomy in some fields, the CHAIRMAN suggested that the paragraph should be deleted, it being understood that the Committee could come back to the matter when it examined paragraph 24.

36. It was so decided.

Paragraph 17

37. The CHAIRMAN drew attention to typing errors in paragraph 17 and he suggested that it should be worded to read: "Concern is also expressed over insufficient information about the relocation of seal hunters' villages in Thule in 1953 and, in particular, about the persistent long delay in resolving the compensation claim of the population of Thule, displaced from their traditional hunting grounds and places of settlement."

38. Paragraph 17, as amended, was adopted.

Paragraph 18

39. Paragraph 18 was adopted.

Paragraph 19

40. Mr. GARVALOV pointed out that article 4 contained not only paragraphs (a) and (b), which were mentioned in the text, but also a paragraph (c). He proposed that reference should be made simply to article 4, the reference to paragraphs (a) and (b) being deleted and the expression "this provision" at the end of the first sentence being replaced by "these provisions".

41. Paragraph 19, as amended, was adopted.

Paragraph 20

42. Paragraph 20 was adopted.

Paragraph 21

43. Mr. SHERIFIS proposed that the wording of the paragraph should be brought into line with that of paragraph 13 through the deletion of the word "minority".

44. Paragraph 21, as amended, was adopted.

Paragraph 22

45. Mr. SHERIFIS proposed that the words "and to the Faeroe Islands" should be added at the end of the paragraph.

46. Mr. WOLFRUM, while prepared to accept that amendment, pointed out that the Faeroe Islands, unlike Greenland, did not have their own legal system.

47. Paragraph 22, as amended, was adopted.

Paragraph 23

48. Mr. AHMADU suggested that the word "issue" in the second line of the paragraph should be deleted and that the spelling of Thule should be corrected.

49. Paragraph 23, as amended, was adopted.

Paragraph 24

50. Mr. RECHETOV proposed, firstly, that the words "the status and" should be added before "the implementation of the Convention in Greenland and the Faeroe Islands" and, secondly, that the words "on the subject" should be added at the end of the paragraph.

51. Mr. WOLFRUM pointed out that the basic document submitted by Denmark contained all the information required on the status of Greenland, but not on the status and implementation of the Convention in Greenland and in the Faeroe Islands.

52. Mr. SHAHI said that he was prepared to accept the first amendment suggested by Mr. Rechetov, but not the second.

53. Mr. RECHETOV then proposed that the words "and address all the concerns expressed by the Committee" should be deleted at the end of the paragraph after the words "Faeroe Islands" or, possibly, that the last part of the sentence should be made into a separate paragraph.

54. Mr. WOLFRUM opposed the deletion of the last part of the sentence, since Denmark had not addressed the concerns expressed by the Committee following consideration of the previous report.

55. Mr. DIACONU said that he, for his part, was against the addition of a separate paragraph to express the Committee's concerns. As a general observation, though without insisting that the point should be reflected in the Committee's concluding observations, he wished to point out that Finland was the only Scandinavian country that, since the revision of the Constitution in 1993, recognized not only long-established minorities, but also all ethnic groups, on the basis of uniform and objective criteria. The Committee might perhaps wish to adopt a recommendation on that question.

56. The CHAIRMAN informed Mr. Diaconu that the Committee would certainly return to the question at a later date. It was his understanding that the first amendment proposed by Mr. Rechetov was acceptable to all, so that the paragraph would then read: "The Committee recommends that the State party's next periodic report contain specific information regarding the status and the implementation of the Convention in Greenland and the Faeroe Islands, and address all the concerns expressed by the Committee."

57. Paragraph 24, as amended, was adopted.

58. The draft concluding observations of the Committee concerning the thirteenth periodic report of Denmark, as orally amended, were adopted.

Draft concluding observations of the Committee concerning the eleventh, twelfth and thirteenth periodic reports of Iraq (document distributed during the meeting, in English only: CERD/C/51/Misc.12/Rev.1 - future CERD/C/304/Add.28 - future CERD/C/51/CRP.1/Add.4)

Paragraph 1

59. Paragraph 1 was adopted.

Paragraph 2

60. Mr. ABOUL-NASR deplored the negative tone of the introduction, in which the Committee already expressed regret in the second sentence. He thought that it would be better to include that second sentence in section D (Principal subjects of concern).

61. Mr. RECHETOV wondered whether it should not be indicated in the concluding observations that, for the first time in its history, the Committee was formulating such observations on a report not at the meeting when it was examined, but at the following meeting. He asked the Chairman whether that was a new practice which could be applied to other countries.

62. The CHAIRMAN said he doubted whether the Committee would wish to make a habit of postponing consideration of its concluding observations to a subsequent meeting; it had simply been forced by circumstances to have recourse to that procedure in the case of Iraq.

63. Mr. SHAHI proposed, as a way of responding to Mr. Aboul-Nasr's concern, that the beginning of the second sentence of paragraph 2 should be deleted, so that the sentence would read: "The report did not fully follow the guidelines for the presentation of reports and lacked concrete information on the practical implementation of the Convention and laws bearing on issues concerning the Convention."

64. Paragraph 2, as amended, was adopted.

Paragraph 3

65. Mr. ABOUL-NASR proposed that the paragraph should be deleted.

66. Mr. van BOVEN said that, although he himself was not in favour of the idea of requesting States parties to make the declaration envisaged in article 14, the Committee must, for the sake of consistency, keep to the decision that it had taken to insert such a paragraph in all the concluding observations addressed to those States parties that had not made that declaration.

67. Mr. de GOUTTES added that the wording proposed, although not ideal, was flexible enough to be generally acceptable and that it was preferable to the outright deletion of the paragraph.

68. Mr. ABOUL-NASR requested that, if it was retained, the paragraph should be included among the concluding observations regarding the reports of all the States concerned, without exception and in its usual place.

69. The CHAIRMAN said it was his understanding that the Committee wished to keep paragraph 3, while taking account of the wish expressed by Mr. Aboul-Nasr.

70. It was so decided.

71. Paragraph 3 was adopted.

Paragraph 4

72. Mr. SHAHI asked whether the area mentioned in the second line of the paragraph was really called the "Northern Governates".

73. Mr. ABOUL-NASR thought that the words "the further" in the penultimate sentence should be deleted, since they added nothing to the text.

74. Mr. SHAHI said that in view of the extreme hardship that Iraq was currently experiencing it was excessive to ask it, as the Committee was doing in the last sentence, to implement all its international human rights commitments.

75. Mr. GARVALOV considered that, since the Committee's mandate was to monitor the application of the Convention, it was preferable to confine itself to that instrument and delete the phrase "international human rights commitments, including" in the last sentence of the paragraph.

76. Mr. YUTZIS defended the consistency and balance of paragraph 4: since it recognized the general situation existing in Iraq, it could not, in the last sentence, ignore the fact that the application of the Convention also took place in a more general context of respect for human rights. Clearly, there should be no question of specifically requesting Iraq to carry out its responsibilities in respect of the whole range of human rights, but it was

clear, as the Committee had already observed with regard to other countries, that a State could not point to its difficulties as a reason for evading its obligations.

77. Mr. AHMADU proposed, in view of the time that had elapsed since March when the first version of the draft concluding observations had been produced, that the text should be brought up to date by adding the word "fully" before the word "implemented" at the end of the third sentence of the paragraph. In the first line the word "hardship" seemed to him to be a more suitable term than "crisis" for describing the precarious situation in Iraq.

78. Mr. de GOUTTES said that he was convinced by the arguments put forward by Mr. Yutzis in favour of retaining the text of paragraph 4, but that he would not be opposed to the amendment proposed by Mr. Garvalov.

79. Mr. DIACONU supported the solution put forward by Mr. Garvalov: while it was clear that Iraq, in its present situation, was quite unable to perform all its commitments under the Convention, it could not, for all that, be exempted from its obligation not to practise discrimination, in particular with regard to the distribution of scarce resources.

80. Mr. SHAHI said he found there to be some lack of consistency between the beginning of the paragraph, where, in effect, the Committee excused in general terms Iraq's failure to meet its obligations, and the end, where it reminded Iraq - also in general terms - of its commitments. Such a reminder could be justified - for example, so as not to give Iraq an excuse for practising torture - but it should be done in such a way that the two sentences were consistent with one another.

81. Mr. YUTZIS said it was important to express the idea that, despite the very real difficulties encountered by the State party in fully carrying out its obligations, it was obliged to do everything within its power to fulfil its commitments. The text might perhaps be improved by deleting the phrases concerning the implementation of other human rights instruments.

82. Mr. RECHETOV said that, in his view, the difficulties arose mainly from the use of the word "commitments" in the last sentence. The reference to commitments was too vague. A reminder of its "obligations" would be clearer, and since Iraq should not be allowed to believe that it could protect some human rights but not others - and thus, for example, practise torture - it should be made clear that the obligations were specific to Iraq through the insertion of "its" between the words "implement" and "international".

83. The CHAIRMAN said he believed that the deletion of the words "international human rights commitments, including" in the final sentence would meet the wishes of the majority of the members.

84. Mr. DIACONU proposed, as a means of exhorting Iraq to do everything within its power, that the end of the final sentence should be amended so as to read: "its responsibility to make all possible efforts to implement the Convention".

85. Mr. ABOUL-NASR advised the Committee to confine itself to requesting Iraq to implement the Convention, without mentioning other rights, such as freedom from torture, since otherwise it would be playing into the hands of those who, on the pretext that Iraq did not always apply all human rights instruments to the letter, were opposed to the lifting of sanctions against that country. The fact was that, there was no country which - especially in the critical situation in which Iraq found itself - was absolutely beyond reproach. The Committee should not venture into the political sphere.

86. The CHAIRMAN suggested that paragraph 4 should be put to the vote.

87. Mr. GARVALOV, speaking on a point of order, asked the Chairman to begin by inviting the Committee to decide on the amendments proposed. He suggested, for his part, adding the words "and other international human rights obligations" to the heading of section B, so as to cover the two ideas expressed in the first and final sentences of the paragraph.

88. Mr. de GOUTTES, intervening on the same grounds, considered that that objective could be achieved in a different manner and proposed that the Committee should recognize, in the first sentence, that the full implementation of the Convention was "made more difficult" rather than "impeded" by certain factors.

89. The CHAIRMAN said it was his understanding that there was no support in the Committee for a vote to be held on Mr. Garvalov's proposal and that the normal wording used in the heading of the section should be retained. He put the paragraph with the following amendments to the vote: in the first sentence, "crisis" should be replaced by "hardship", and "impede" by "makes ... more difficult". In the third sentence, the word "fully" should be inserted between "been" and "implemented". In the fourth sentence the words "the further" should be deleted; and in the last sentence the words "international human rights commitments, including" should also be deleted.

90. A vote was taken by a show of hands.

91. Paragraph 4, as amended, was adopted by 15 votes to none, with 1 abstention.

Paragraph 5

92. Paragraph 5 was adopted.

Paragraph 6

93. Mr. DIACONU pointed out that the end of the paragraph should read "are noted" instead of "is noted".

94. Paragraph 6 was adopted subject to that drafting change.

Paragraph 7

95. Mr. DIACONU proposed that the words "including on aspects concerning the implementation of the Convention" should be inserted in the first line after the words "the human rights situation in Iraq", so as to make a direct reference to the Convention and not just refer to a report that had been drawn up by a body other than the Committee. Otherwise, it would be better to delete the first two sentences of the paragraph.

96. The CHAIRMAN suggested, bearing in mind Mr. Diaconu's proposal, that the paragraph might be amended to read: "According to certain reports, in particular the report of the Special Rapporteur of the Commission on Human Rights (E/CN.4/1997/57), the human rights situation in Iraq with respect to the implementation of the Convention is a matter of grave concern."

97. Mr. ABOUL-NASR asked Mr. Wolfrum to indicate whether the Special Rapporteur had actually stated in his report that the failure to implement the Convention in Iraq was a matter of grave concern.

98. Mr. WOLFRUM stated, for the benefit of Mr. Aboul-Nasr, that the Special Rapporteur, without mentioning the Convention, had nonetheless expressed his concerns regarding facts that related to the application of the Convention.

99. Mr. AHMADU proposed that the beginning of the paragraph should read: "The human rights situation in Iraq, according to certain reports, in particular the report of the Special Rapporteur ...".

100. The CHAIRMAN thought that Mr. Diaconu's proposal could be taken into account by the following wording: "The human rights situation in Iraq in respect of the implementation of the Convention, according to certain reports, in particular the report of the Special Rapporteur of the Commission on Human Rights (E/CN.4/1997/57), is a matter of grave concern."

101. Mr. van BOVEN, supported by Mr. de GOUTTES, said that the text proposed by Mr. Diaconu, as amended by the Chairman, preserved the main features of the conclusion reached, which was already very neutral.

102. Paragraph 7, as orally amended by Mr. Diaconu, was adopted.

Paragraph 8

103. Mr. ABOUL-NASR said he did not believe that the Committee should concern itself with whether Security Council resolutions regarding the protection of human rights in Iraq had been fully implemented. He was not sure that any of the Security Council resolutions had been applied in its entirety and thought it dangerous to establish a link between the Committee's recommendations and the sanctions that had been taken against Iraq, whose application had given rise to all kinds of problems. It would be better for the Committee to confine itself to reminding Iraq of its obligations under the Convention.

104. Mr. DIACONU said he thought that, unless it was definitely established that the resolutions mentioned in draft paragraph 8 did in fact deal with the human rights situation and the implementation of the Convention in Iraq, the Committee should refrain from referring to them. It would be better to urge Iraq to fulfil the obligations regarding the elimination of racial discrimination that it had entered into under the Convention. Otherwise, it would be better to consider deleting the paragraph.

105. Mr. WOLFRUM said he was opposed to the proposal to delete the paragraph. Unlike Mr. Aboul-Nasr he considered that there was nothing in the text that could be interpreted as an appeal on behalf of sanctions that would give rise to new violations of human rights. If it was not right to mention Security Council resolutions in paragraph 8, why do so in paragraph 14?

106. Mr. de GOUTTES said he shared Mr. Wolfrum's point of view. He proposed that, in order to gain time, a vote should be taken on the paragraph in question.

107. Mr. RECHETOV said that he, unlike Mr. Diaconu, thought it better that paragraph 8, which seemed to him to be very important, should be retained without change. Furthermore, he considered it possible to reach a consensus without taking a vote.

108. Mr. AHMADU said he feared that paragraph 8 looked like a political statement totally unconnected with the questions with which the Committee was concerned. However, it seemed to him that the Committee could avoid the difficulty by merging paragraph 8 with paragraph 14.

109. The CHAIRMAN, taking up Mr. Ahmadu's proposal, proposed a new text which would begin with paragraph 8 and continue with paragraph 14. The new text would begin with the words: "While concerned that Security Council resolutions ...".

110. Mr. RECHETOV said he found little merit in Mr. Ahmadu's proposal. He pointed out that paragraph 8 referred to Security Council resolutions in general, while paragraph 14 referred to particular provisions of one resolution of the Council.

111. Mr. ABOUL-NASR proposed that, after the word "concerning", the sentence should continue with the words "the elimination of all forms of racial discrimination in Iraq have not been fully implemented". That formula would cover the situation of both the Kurds in the north of Iraq and the inhabitants of the marshes in the south.

112. Mr. SHAHI suggested, bearing in mind Mr. Aboul-Nasr's observations, that it might be possible to combine paragraph 8 with paragraphs 9 and 10, which drew Iraq's attention to the situation of, respectively the Kurds in the north and the inhabitants of the marshes in the south.

113. Mr. ABOUL-NASR, with a view to making his previous amendment more specific, proposed the insertion, after "Security Council resolutions", of the words "dealing with matters relating to racial discrimination ...".

114. Mr. de GOUTTES proposed, as a sub-amendment, the following text: "The Committee is concerned that Security Council resolutions concerning the protection of human rights in Iraq have not been fully implemented as regards the elimination of racial discrimination".

115. Mr. ABOUL-NASR maintained his draft amendment.

116. Mr. van BOVEN, stating that to his knowledge there was no Security Council resolution mentioning human rights, considered that the text proposed by Mr. Aboul-Nasr was correct as to its substance and could be adopted without being put to the vote.

117. Paragraph 8, as amended by Mr. Aboul-Nasr, was adopted.

118. Mr. GARVALOV said he did not think that the Committee's rules of procedure had been fully observed during the examination of paragraph 8: in his opinion, the sub-amendment proposed by Mr. de Gouttes had not been properly taken into consideration.

Paragraphs 9-12

119. Paragraphs 9-12 were adopted.

Paragraph 13

120. The CHAIRMAN suggested, for reasons of syntax, that the word "for" should be inserted after "respect".

121. Paragraph 13, as amended, was adopted.

Paragraph 14

122. Mr. ABOUL-NASR said that, in his view, mention should be made of all the prisoners or detainees and also of all the persons reported missing in the Iran-Iraq conflict, irrespective of the State to which they belonged.

123. Mr. WOLFRUM remarked that the purpose of paragraph 14 was to obtain the release of persons detained in Iraq and that it was not concerned with persons who had been reported missing during the conflict. However, the Committee could, on purely humanitarian grounds, mention the prisoners of war and the other persons kept in detention following the conflict, whatever their nationality. It could also request information on the persons reported missing during that period.

124. Mr. DIACONU pointed out that the matters referred to in paragraph 14 appeared to be in the sphere of humanitarian law and the law of war and, consequently, came under the Geneva Conventions rather than the International Convention on the Elimination of All Forms of Racial Discrimination. Accordingly, he did not believe that the Committee should express an opinion on such matters.

125. The CHAIRMAN, noting that a consensus appeared to have emerged on the substance of the matter, suggested that consideration of paragraph 14 should be postponed, it being understood that Mr. Wolfrum would submit a new text of that paragraph to the Committee.

126. It was so decided.

127. Mr. RECHETOV requested that note should be taken of his very strong reservations regarding paragraph 14. He stated that the text did not correspond, either in substance or form, to the way in which the Committee usually reacted to a declaration made by a State party.

Paragraphs 15-20

128. Paragraphs 15-20 were adopted.

129. The CHAIRMAN said that, at its following meeting, the Committee would complete its consideration of the draft concluding observations concerning the eleventh, twelfth and thirteenth periodic reports of Iraq.

The meeting rose at 6 p.m.

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Fifty-first session

SUMMARY RECORD OF THE 1231st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 14 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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ORGANIZATIONAL AND OTHER MATTERS (continued)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the eleventh to thirteenth periodic reports of Iraq (CERD/C/51/Misc.12/Rev.1, future CERD/C/304/Add.28) (continued)

Paragraph 14 (continued)

1. The CHAIRMAN invited members to resume consideration of paragraph 14 of the draft concluding observations and read out the text of a proposed amendment thereto, as follows:

> "The Committee recommends that Iraq comply with the relevant Security Council resolutions calling for the release of all Kuwaiti nationals and nationals of other States who might still be held in detention and to provide all information available on missing individuals of such States."

2. Mr. DIACONU said he saw no improvement over the original draft. To what article of the Convention did that paragraph pertain?

3. Mr. ABOUL-NASR agreed with Mr. Diaconu; his preference was to do without the paragraph.

4. Mr. WOLFRUM said the justification for the amendment lay in the preamble to the Convention, in which it was quite clear that the Convention did not stand on its own but must be seen within the broader framework of other human rights conventions. The paragraph was, moreover, relevant to article 2 of the Convention. It should be voted on if necessary.

5. Mr. RECHETOV said the language had no bearing on the Convention and should be deleted altogether.

6. Mr. YUTZIS agreed with Mr. Wolfrum; the proposed text maintained a reasonable balance.

7. Mr. SHAHI said that a times the Committee seemed to favour a reference to the Convention alone and at others a reference to all the other human rights instruments, as in paragraph 13 of the draft concluding observations concerning Iraq. He would go along with either position, but was concerned about the inconsistency.

8. Mr. GARVALOV said the Committee might avoid taking a formal vote by allowing members to state how they would have voted had a vote been taken.

Explanations of position

9. Mr. ABOUL-NASR said that he would have abstained from voting because he considered the text to be out of the context of the Convention.

10. Mr. DIACONU suggested that a consensus could perhaps be reached if the text referred to non-discriminatory treatment by Iraq of all persons under detention, whether Kuwaitis or nationals of other States.

11. Mr. RECHETOV said the proposal was unacceptable because the Committee did not have any information about the basis on which the persons in question were being detained. In any event, the issue pertained to matters of international humanitarian law that were outside the Committee's purview. Mr. Garvalov's proposal was also unsatisfactory. He would not participate in a vote.

12. Mr. GARVALOV said that if the Security Council resolutions had some bearing on the Convention, he could go along with the wording.

13. Mr. LECHUGA HEVIA said he would have voted to delete the paragraph.

14. Mr. YUTZIS said the issue was an important one; he disagreed with the manner in which the remarks that should have been made about the situation in Iraq had been whittled down. It was not the purpose of the Committee to please States; the present case was a special situation, and it could not be subsumed into a common denominator on the situation of all States. He would therefore have voted to retain the text.

15. Mr. VALENCIA RODRIGUEZ said he would have abstained because there was no basis in the Convention for issues of the sort under discussion to appear in the present context.

16. Mr. de GOUTTES said he would have voted in favour of the paragraph, and if necessary, of the amendment proposed by Mr. Diaconu.

17. Mr. SHAHI said he would have abstained.

18. Mr. WOLFRUM said he would have voted in favour.

19. Mr. DIACONU said it would reflect poorly on the Committee were it to adopt a text with only three votes in favour and many abstentions. He would not participate.

20. Mrs. ZOU Deci said she would have abstained, because the paragraph did not fall under the terms of reference of the Convention. While she was not opposed to the overall content of the paragraph, putting it in the Committee's recommendations was inappropriate.

21. After a discussion, the CHAIRMAN suggested that a vote be taken on the paragraph.

22. A vote was taken by show of hands.

23. Paragraph 14 was adopted, as orally amended, by 3 votes to 1, with 5 abstentions, and 4 members not participating.

24. Mr. GARVALOV said that, according to rule 48 of the rules of procedure, a two thirds majority of its members present and voting was required for the Committee to reconsider a proposal already adopted or rejected, which was the case with paragraph 14. An amendment should be sought as a solution.

25. Mr. DIACONU proposed the following language as a compromise: "The Committee recommends that Iraq comply with the norms of international law and Security Council resolutions in treating all Kuwaiti nationals and nationals of other States still held in detention in a non-discriminatory manner." Such language would be in accordance with the Convention, calling on States not to discriminate between people.

26. Mr. ABOUL-NASR said that Mr. Diaconu's proposal amounted to an accusation; moreover, the Committee having just voted no proposal should be allowed unless a decision had been taken by a two thirds majority to reconsider it.

27. Mr. SHAHI seconded Mr. Garvalov's proposal to reconsider the decision.

28. Mr. GARVALOV said that according to rule 50 of the rules of procedure, "members present and voting" meant members casting an affirmative or negative vote; members abstaining were considered as not voting.

29. A vote was taken by show of hands.

30. The motion to reconsider the decision, was rejected by 7 votes to 6.

31. The draft concluding observations of the Committee concerning the eleventh to thirteenth periodic reports of Iraq, as a whole, as orally amended, were adopted.

32. Mr. GARVALOV said he had gone along with the adoption of the concluding observations, as orally amended, but wanted his own views on record that the Committee would have done better to have found a way out of a difficult situation, either by adopting the text without a vote or by merely allowing members to express their opinions on how they would have voted.

33. Mr. DIACONU said he would accept the concluding observations, but, as the vote had shown, paragra[illegible] 14 concerned an issue that did not fall within the purview of the Committee.

34. Mr. SHAHI said he had gone along with the concluding observations but must express reservations about a text that presented certain internal inconsistencies in referring in some paragraphs to the implementation of all the human rights instruments and in others to only the provisions of the Convention. The fundamental human rights covered by article 5 of the Convention did not cover the full range of the rights enshrined in the Universal Declaration of Human Rights. To be consistent, the Committee should have confined itself to the Convention and not referred to any other instruments.

35. Mr. ABOUL-NASR said he had gone along with the text, which was the result of compromise.

36. Mr. WOLFRUM said he encouraged more dialogue between the Committee and Iraq in the future. On the basis of the concluding observations, the Convention could be of help in improving the situation in Iraq as far as the application of the Convention was concerned.

Draft concluding observations concerning the eleventh periodic report of Mexico (future CERD/C/304/Add.30)

Paragraph 2

37. Mr. ABOUL-NASR said that the last two sentences of the paragraph, beginning: "However, it [the Committee] regrets the existence of divergencies in the interpretation of the Convention ..." did not belong in the introductory part of the concluding observations, but should be moved to section D "Principal subjects of concern", as a new paragraph 8.

38. Mr. de GOUTTES (Country Rapporteur) said that the phrasing of concluding observations should be consistent. He suggested that the wording used in the concluding observations of Iraq should be used, namely to leave the two sentences where they were and to delete any reference to regret on the part of the Committee.

39. Mr. WOLFRUM supported Mr. Aboul-Nasr's proposal.

40. Mr. SHAHI said that it would indicate undue concern on the part of the Committee to move the statements to section D. He suggested that the statements should be left in paragraph 2, and all references to "regret" deleted, to read: "Divergencies exist in the interpretation ... The data on the composition of the States parties' population is imprecise."

41. Mr. WOLFRUM pointed out that, in the case of Mexico, it was a question of interpretation of the Convention, which was a fundamental issue which surely belonged in the introduction. In the case of Iraq, the matter in question had merely been the Committee's reporting guidelines.

42. Mr. de GOUTTES agreed with Mr. Wolfrum.

43. Mr. SHAHI pointed out that under the current proposal, the sentence about imprecise population data would also be moved to section D. Was that issue a "principal subject of concern" for the Committee? In some concluding observations, the Committee seemed to condemn States for not providing accurate population data, and in others it seemed to let the matter drop. A consistent policy was needed.

44. The CHAIRMAN suggested that the Committee should adopt the first three sentences as paragraph 2. The last two sentences should be moved to section D, to form a new paragraph 8. He suggested that the exact wording should be discussed in the debate on section D.

45. It was so decided.

Paragraph 3

46. Mr. ABOUL-NASR, supported by Mr. SHERIFIS, said that, for the sake of consistency, the paragraph, which referred to the declaration provided for in article 14 of the Convention, should be moved to section E "Suggestions and recommendations".

47. Mr. de GOUTTES suggested that the same formula as that used for the concluding observations of Iraq should be used. He preferred paragraph 3 to remain in section A.

48. Mr. GARVALOV pointed out that the reference to article 14 had appeared in the section on suggestions and recommendations in past concluding observations, but it had been moved to the introduction because some members had not wished to make too strong a recommendation to States parties.

49. The CHAIRMAN said that the consensus seemed to be to keep paragraph 3 in its present position in section A, and amend the first words to read: "It is noted that the State party ...".

50. It was so decided.

Paragraph 4

51. The CHAIRMAN said that the first sentence should be amended to read: "... a large number (56) of ethnic and indigenous groups ...".

52. In response to points raised by Mr. ABOUL-NASR and Mr. de GOUTTES, he suggested that the first sentence should be amended to read: "It is noted that Mexico is ...".

53. It was so decided.

54. Mr. ABOUL-NASR questioned the reference in all paragraphs to the situation of indigenous populations, as if the Committee had discussed no other issues.

55. Mr. YUTZIS said that it was a fact that most of the ethnic problems in Mexico concerned the indigenous peoples. He suggested the following amendment to the second sentence: "... large segments of the population, mostly indigenous people, particularly in the province of Chiapas ...".

56. Mr. SHERIFIS suggested that the phrase: "The Mexican authorities have not succeeded in eliminating endemic poverty" should be amended, since surely no Government could be expected to eliminate poverty entirely.

57. Mr. AHMADU expressed misgivings about the words "extreme poverty" in the second sentence.

58. The CHAIRMAN suggested that, since members clearly had many comments to make on the draft concluding observations, the discussion should be suspended for the time being. Members should submit their proposed amendments to Mr. de Gouttes.

59. It was so decided.

Draft concluding observations concerning the eleventh to fourteenth periodic reports of the Philippines (CERD/C/51/Misc.16, future CERD/C/304/Add.34)

Paragraph 2

60. Mr. GARVALOV (Country Rapporteur) said that the word "somewhat" in the last sentence should be deleted.

Paragraph 3

61. The CHAIRMAN said that, for consistency, the paragraph should be amended to read: "It is noted that the State party ...".

62. Mr. van BOVEN suggested that that paragraph, which dealt with the declaration provided for in article 14 of the Convention, should be moved to the section on suggestions and recommendations, as Mr. Aboul-Nasr had suggested in the case of Mexico.

63. The CHAIRMAN said that the paragraph had deliberately been moved from the section on recommendations to its current position for the reasons just given in the discussion on Mexico. Naturally, the Committee was at liberty to move it back if it so wished.

64. Mr. SHERIFIS said that the paragraph should be moved.

65. It was so decided.

Paragraph 4

66. Mr. GARVALOV (Country Rapporteur) said that the last line of the paragraph should be amended to read: "... including the indigenous cultural communities and Muslim Filipinos", in order to reflect the terms used by the State party.

67. Mr. ABOUL-NASR asked whether the term "Muslim Filipinos" referred to the people's ethnic origin, or their religion.

68. Mr. GARVALOV (Country Rapporteur) said that, in his opinion, the Muslim Filipinos were a distinct ethnic group. He had put the question to the State party, but had not received a reply.

69. Mr. WOLFRUM agreed that the Muslim Filipinos were a distinct ethnic group, and they were certainly treated differently from other groups.

70. Mr. YUTZIS preferred the original wording.

71. The CHAIRMAN said he took it that most members preferred Mr. Garvalov's amendment.

72. It was so decided.

Paragraph 7

73. In response to a question by Mr. ABOUL-NASR, Mr. GARVALOV confirmed that the peace agreement referred to in the paragraph was indeed the so-called "Tripoli Agreement".

Paragraph 8

74. Mr. ABOUL-NASR asked for an explanation of the phrase "certificates of ancestral land and domain claims".

75. Mr. GARVALOV (Country Rapporteur) explained that the Philippine authorities had issued certificates for the return of ancestral land to indigenous peoples as a temporary measure pending the adoption of the necessary legislation by Congress. When the legislation was adopted, the certificates would be exchanged for the proper land deeds.

76. Mr. ABOUL-NASR suggested that a reference should be included in the section on suggestions and recommendations, calling for the speedy restitution of lands to the indigenous peoples.

Paragraph 11

77. The CHAIRMAN, in order to meet to Mr. GARVALOV's concern for clarity, suggested that the word "It" at the beginning of the penultimate sentence be replaced by "The article". In response to a suggestion by Mr. DIACONU he further suggested that in the phrase immediately following the quotation in the previous sentence, the words "it is underlined" should be replaced by "the Committee emphasizes".

78. It was so decided.

Paragraph 12

79. Mr. ABOUL-NASR said that once a country had acceded to the Convention, provided that it respected the Convention, there was no reason why it should include in its Constitution a definition of racial discrimination as it appeared in article 1.1. The Committee should therefore refrain from insisting on such a requirement and calling on countries to amend their Constitutions accordingly, as it had in the past.

80. Mr. DIACONU endorsed that view. The Committee might instead request the State party to include in its legislation a condemnation and prohibition of racial discrimination.

81. Mr. SHAHI agreed with those views. As Country Rapporteur for Poland, he had refrained from asking the State party, during the discussion of its report, to include a definition of racial discrimination in its Constitution or other legislation. If a State was in substantial compliance the Committee should consider the State's legislation on its merits.

82. Mr. SHERIFIS endorsed the views of the three previous speakers.

83. Mr. WOLFRUM said that Mr. Diaconu's suggestion was unacceptable. He endorsed the views of Mr. Shahi. The real issue was in the second part of the sentence and the first part should be deleted.

84. Mr. GARVALOV (Country Rapporteur) suggested that in the light of those views the first sentence should read:

> "It is noted with concern that there is no specific legislation prohibiting racial discrimination."

85. It was so decided.

86. At the suggestion of Mr. AHMADU it was further decided that the word "quite" should be deleted from the second sentence.

Paragraph 13

87. Mr. ABOUL-NASR observed that it could not be said that no information had been provided, when the representative of the Philippines had provided information orally.

88. The CHAIRMAN suggested that it would be more accurate to say that there had been insufficient information.

89. Mr. SHERIFIS said that the paragraph as it stood was too negative and should be balanced by some positive expression, such as welcoming the establishment of the Commission on Human Rights and the Ombudsman. It might even be more appropriate to move the paragraph to section C.

90. The CHAIRMAN, following a brief discussion between himself, Mr. SHERIFIS and Mr. GARVALOV proposed that a paragraph should be inserted at the end of section C to read:

> "The Committee welcomes the establishment of the Commission on Human Rights and of the Ombudsman."

91. It was so decided.

92. Mr. ABOUL-NASR, supported by Mr. SHERIFIS, suggested that a paragraph requesting further information on the powers and functions of those institutions should be transferred to Section E.

93. The CHAIRMAN said that as that request was already covered by paragraph 23, paragraph 13 could be deleted in its entirety.

94. It was so decided.

Paragraph 14

95. Mr. GARVALOV (Country Rapporteur) suggested that the words "these require" be replaced by "the provisions require" and that the last sentence of the paragraph be deleted.

96. It was so decided.

Paragraph 16

97. Mr. GARVALOV (Country Rapporteur) pointed out that the word "cultural" should be inserted after "indigenous" in line with the earlier amendments.

Paragraph 17

98. Mr. SHERIFIS urged caution in dealing with such sensitive issues as disappearances in order to avoid making a political statement. He therefore suggested that if the intention was to comment on the situation of ethnic groups, the words "which affected mostly" should be replaced by "including".

99. After a brief discussion between Mr. GARVALOV, Mr. YUTZIS, Mr. SHAHI and Mrs. ZOU Deci on the question of disappearances and the evidence available, Mr. GARVALOV (Country Rapporteur) suggested that the paragraph should read:

> "With respect to article 5, paragraphs (a) and (b), of the Convention, there is concern that many reported cases of disappearances, including members of indigenous peoples and Muslim Filipinos, have not yet been fully investigated and brought before the courts."

100. It was so decided.

Paragraph 20

101. Mr. GARVALOV (Country Rapporteur) said that the word "cultural" should be inserted after "indigenous" in line with previous amendments.

Paragraph 24

102. Mr. SHERIFIS said that the words "irrespective of their religion" were unnecessary and should be deleted.

103. It was so decided.

104. The draft concluding observations of the Committee concerning the eleventh to fourteenth periodic reports of the Philippines, as a whole, as orally amended, were adopted.

Draft concluding observations concerning the eleventh and twelfth periodic reports of Algeria (CERD/C/51/Misc.15, future CERD/C/304/Add.33)

Paragraph 3

105. The CHAIRMAN suggested that in the light of Mr. ABOUL-NASR's submission that the reference to a market economy placed the observation outside the scope of the Convention, the sentence should be amended to read: "It is recognized that Algeria has to face economic, social and political challenges and is experiencing economic and social problems which might have a negative impact ...".

106. It was so decided.

107. The CHAIRMAN suggested that the Committee should resume consideration of the remaining paragraphs of the draft concluding observations concerning Algeria at a subsequent meeting.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

108. The CHAIRMAN invited the Committee to consider a review of the timetable including postponement, as the Bureau had recommended, of its consideration of the situation in Rwanda and, for consistency's sake, the Democratic Republic of the Congo, in view of the fact that the situation in the two countries were similar. Mr. Chigovera would be unavoidably absent on the day scheduled for consideration of the latter situation, for reasons explained previously.

109. Replying to Mr. ABOUL NASR's request for more details on the reasons for the proposed deferments, he recalled the final and somewhat different view of the Committee when the matter had last been discussed that Rwanda should be kept on the list in case there were further developments in the interim but without informing the Rwandan Government of its decision to do so because it was thought that the State party might not have anything to add to its previous statements.

110. The Bureau's recommendation concerning the Democratic Republic of the Congo was that, in view of the uncertainty surrounding the current situation there, there was doubt whether the Committee's view of the situation would have any practical effect on events. It would be better if the Committee waited until the report of the investigating mission had been submitted before expressing its views. It was to be remembered that Mr. Chigovera, who was very involved in his capacity as a member of the joint mission appointed by the Secretary-General to investigate human rights issues in the eastern part of the Democratic Republic of the Congo, had been party to the Committee's discussions and would be absent on the scheduled date at the current session.

111. Mr. WOLFRUM said that there was some merit to the proposal to postpone discussion of Rwanda because it had been kept open only in case there were any further developments. As far as the Democratic Republic of the Congo was concerned he disagreed to the extent that the Committee did have information available in the report of the joint mission. Although he had already expressed the view that under the present circumstances the Committee should not take any action, the Committee should at least be briefed on events in the country and on the mandate of the investigating team, with a view to taking up the issue at the next opportunity.

112. The CHAIRMAN said that he took Mr. Wolfrum's point and was prepared to keep the situation in the Democratic Republic of the Congo on the agenda for the following week.

113. Mr. SHERIFIS agreed with the recommendation concerning Rwanda and shared Mr. Wolfrum's view that the Committee should to informed but refrain from making any recommendations pending the information that Mr. Chigovera would have to share at the March 1998 session.

114. Mr. SHAHI agreed that the Committee should wait until it had up-to-date information on the situation in Rwanda and the Democratic Republic of the Congo, particularly with respect to whether the repatriated Rwandan refugees were being provided with adequate security, free from the threat of revenge killings. Pending the findings of the investigating mission, the situation should be kept under close scrutiny by the Committee to prevent the occurrence of any further victimization. Given the Committee's mandate, the situation in both countries was more relevant to CERD than to any other committee. There was no justification for the Committee to neglect to give its close attention to the unfolding situation merely because another United Nations organ, the Security Council, was actively seized of the situation.

115. The CHAIRMAN assured Mr. Shahi that the Committee's wishes were clear.

116. Mr. de GOUTTES suggested that the Committee might at least request that a representative of the Secretary-General provide it with the latest information on the situations in Rwanda and the Democratic Republic of the Congo, and also Burundi.

117. The CHAIRMAN said that he would oppose Mr. de Gouttes' suggestion because of the pressure on the timetable.

118. Mr. ABOUL-NASR, expressing full agreement with Mr. de Gouttes' proposal, which he saw as an imperative, said that the information that Mr. Wolfrum had suggested as a basis for discussion was insufficient. The Committee should not act hastily in considering items of information provided by members of the Committee; it should adopt a serious approach and study all the information at its disposal in Geneva provided by the many United Nations bodies and missions investigating the situation, while considering the implications that such an approach might have for its schedule as an entirely separate issue. As to whether the State party should be informed, the Committee should proceed as it had done with Israel and treat all countries equally, informing the State party of the date and the details concerning the discussion.

119. The CHAIRMAN said that the Democratic Republic of the Congo had been duly informed that it was scheduled for consideration the following week, Rwanda was off the agenda and a delegation from Burundi was expected. In the light of the past expressions of the gravest disquiet at the Committee's failure to adopt concluding observations on two States, he warned of the risk that the Committee might have to conclude its session without being able to present agreed concluding observations on all the reports considered if the discussions continued as at present.

120. Mr. SHERIFIS, supported by Mr. AHMADU, said that it was the responsibility of the Chairman and the rest of the Committee to give first priority to adopting a report with agreed concluding observations on all reports considered. Adoption of recommendations could therefore not be postponed and the Chairman should be assisted in his bid to achieve that goal.

121. Mr. WOLFRUM suggested that discussion of the report of Mr. Alston be restricted to one hour and had misgivings about devoting one half of a meeting to discussing the Third Decade to Combat Racism and Racial Discrimination.

Could the Chairman look into the possibility of holding meetings beyond 6 p.m. in order to complete the Committee's main task of examining States' parties reports?

122. Mr. van BOVEN urged members to exercise self-restraint in examining concluding observations. They should present their observations to the country rapporteurs when required and refrain from raising issues out of context.

123. Mr. GARVALOV endorsed the proposal for late meetings. It was up to the entire Committee to ensure that the concluding observations were adopted.

124. The CHAIRMAN said that he would look into the possibility of making arrangements for late meetings and report back to the Committee.

125. Mr. SHERIFIS, supported by Mr. de GOUTTES, said that it was essential for interpretation and precis-writing services to be provided for late meetings.

The meeting rose at 1 p.m.

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Fifty-first session

SUMMARY RECORD OF THE 1232nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 14 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Twelfth, thirteenth and fourteenth periodic reports of Norway (CERD/C/281/Add.2 and CERD/C/320/Add.1; HRI/CORE/1/Add.6)

1. The CHAIRMAN pointed out that the Committee had before it not only the twelfth and thirteenth periodic reports of Norway, submitted in a single document (CERD/C/281/Add.2), but also the State party's fourteenth periodic report (CERD/C/320/Add.1).

2. At the invitation of the Chairman, Mr. Wille, Ms. Bakken and Ms. Kolshus (Norway) took places at the Committee table.

3. Mr. WILLE (Norway), presenting his country's twelfth, thirteenth and fourteenth periodic reports, said that reporting under the International Convention on the Elimination of All Forms of Racial Discrimination, as under the other principal human rights instruments, constituted an essential element in the international system established to monitor States parties' implementation of their human rights obligations.

4. His delegation appreciated the Committee's willingness also to consider the fourteenth periodic report of Norway, which contained an update on the latest developments in the country, in particular concerning the multicultural character of Norway and the challenges posed by immigration, issues which were addressed in the Government's White Paper on that subject. In addition, the Government had recently established, as planned, a working group consisting of representatives of organizations working against racism and racial discrimination (para. 9), with the mandate of proposing measures to improve the legal aid available to victims of racial discrimination. The working group was chaired by the Chairman of the Liaison Committee between Immigrants and the Norwegian Authorities.

5. His Government had consulted non-governmental organizations (NGOs) regarding the content of the twelfth and thirteenth reports before submitting them to the Committee and had reproduced their comments in annex. Owing to lack of time, it had not been possible to hold the usual consultations before the submission of the fourteenth report, but that was an exception. As indicated in document CERD/C/281/Add.2, the Government would endeavour to improve the dialogue with NGOs and governmental advisory bodies when elaborating future reports to the Committee on the Elimination of Racial Discrimination.

6. Mr. RECHETOV, Rapporteur for Norway, said that he would initially confine his comments to Norway's twelfth and thirteenth periodic reports, the fourteenth report not having reached him before the current meeting. In his view, the reports highlighted the need to pursue the dialogue between the Norwegian authorities and the Committee, and also to improve cooperation with NGOs. Such cooperation was particularly important in view of the fact that NGOs provided legal aid for victims of racial discrimination and played a decisive role in areas concerning human rights in Norway.

7. During the consideration of Norway's tenth and eleventh reports, in March 1994, the Committee had identified three main subjects of concern: the lack of information on the status of the Convention in domestic law, the inadequacy of data on the demographic composition of the population and the imprecision of information about the judicial and administrative procedures designed to protect victims of racial discrimination. Despite the statement in paragraph 2 of the report that account had been taken of the Committee's suggestions and recommendations, the replies to the questions raised were often incomplete.

8. Concerning the status of the Convention, he noted that the integration of the instrument into domestic law was a problem because of the nature of the Norwegian legal system. To be sure, reference was made in paragraph 4 of the report to a revision of the Constitution that would be followed by an Act incorporating certain international human rights conventions into Norwegian legislation, but those international conventions were not specified. Both the Human Rights Committee in 1993 and the Committee on the Rights of the Child in 1994 had expressed regret that the Norwegian Government had not incorporated the provisions of the Covenant and of the Convention on the Rights of the Child into Norwegian legislation. Was the Norwegian Government proposing to integrate the International Convention on the Elimination of All Forms of Racial Discrimination into domestic law?

9. Regarding the demographic composition of the population, the report presented quite complete data. However, it would be useful to know precisely what was meant by the term "established minority group". The report stated that the Sami population was estimated at between 30,000 and 40,000, but that the results of any census would depend on the operational definition of Sami - that definition currently being based on a combination of linguistic and subjective criteria (para. 7), which seemed to be an acceptable method. For greater clarity, it would have been as well to indicate in the report whether nationals of other Scandinavian countries had the same rights as Norwegians.

10. Concerning the measures adopted to combat racism and xenophobia, the Norwegian Government had come to the conclusion that, given the complexity of those phenomena, it was important to broaden the definition of racism and discrimination to include not only isolated cases of direct discrimination and racism, but also processes that led to the marginalization of persons of immigrant origin, for example, seemingly neutral policies and practices by all levels of central and local authorities and all types of private enterprise having that same effect (para. 20). There could be no doubt that the implementation of seemingly neutral policies sometimes had adverse consequences for indigenous people, minorities and immigrants. Among the many initiatives taken by the Norwegian Government, reference should be made to the Plan of Action to Combat Racism and Ethnic Discrimination and to the Brumunddal Plan of Action to Tackle Acute Situations of Racial Violence and Harassment in a Local Community. The public authorities and local administrations had the task of gradually changing attitudes and eliminating prejudices and racist or xenophobic behaviour. The report mentioned several positive results recorded with the Brumunddal Plan of Action (para. 39), although it failed to provide supporting data; those results, moreover, seemed to be contradicted by a quite recent study which, according to paragraph 44, had shown that more than a quarter of the electorate were opposed to

immigration. The report drew attention to the existence of a number of anti-immigrant or neo-Nazi organizations (para. 46), but neglected to mention what measures had been taken to combat them. NGOs, in particular the Anti-Racist Centre, and the Office of the United Nations High Commissioner for Refugees referred to cases of unjustified deportations of foreign students or refoulement of foreign minors who had requested asylum and whose families had not even been informed of the situation. Thus, between 1990 and 1996 the authorities had rejected most of the 1,192 asylum requests from minors wishing to join relatives in Norway. The delegation could perhaps convey to the relevant authorities the Committee's concerns in that regard.

11. The second part of the report contained information relating to articles 2 to 7 that was not always very precise. Action taken by the public authorities within the police (para. 55), prisons (paras. 58 and 59) and the armed forces (paras. 60-64), as well as in schools (paras. 65-70), evidenced a determination to combat racial discrimination. The Liaison Committee between Immigrants and the Norwegian Authorities, created in 1984, had established a dialogue between immigrants, ministries and political parties.

12. The report provided information on the measures taken pursuant to article 2, paragraph 2, of the Convention to support the culture, language, and way of life of the Sami people. The Norwegian Government had rightly not confined itself to applying a non-discrimination policy but had taken positive measures with respect to the Sami. The Norwegian Government had a well-established reputation of liberalism. However, it would be useful if it could indicate to the Committee the number of Sami in higher education and in the Norwegian Parliament, and not merely reply, as the representative of another Scandinavian country had done, that such information could not be provided since it was impossible to differentiate the Sami from nationals. The report stated (para. 96) that the Sami Assembly "should carry substantial weight in Sami political matters". How was that statement to be interpreted? It would be interesting to know whether the Sami language could be used in the Norwegian administrative tribunals. Also, was it true that Sami language courses could be organized for a minimum of four persons?

13. It was regrettable that the arrangements made by the Norwegian Government to preserve the language, culture and way of life of the Sami should be used by the extreme right. The newspaper Le Monde had reported on 12 August that the Progress Party, which had presented candidates for the parliamentary elections, claimed that the Sami were enjoying broad government support to the detriment of the Norwegian population. That claim was all the more serious in view of the likelihood that the Party would win up to 20 per cent of the votes.

14. The information given in the report on article 4 was very interesting. Paragraph 117, for example, referred to a survey initiated by the Director-General of Public Prosecutions following allegations that the police had failed to institute criminal proceedings even in cases of obvious violation of sections 135 (a) and 349 (a) of the Penal Code. The following paragraph was also noteworthy for its acknowledgement that the reduction in the number of complaints regarding racially-motivated crimes might not be due to a real reduction in such crimes and could reflect a lack of confidence

among complainants in the ability of the police to investigate the cases properly. According to some NGOs, the second hypothesis was the correct one.

15. The following paragraphs gave several examples of cases illustrating the need to keep a close watch on the activities of racist organizations. Those using the airwaves to express their views required particular watchfulness since, with very modest means, they could have very prejudicial effects. The same watchfulness was needed for both radio and television (paras. 126 et seq.).

16. The reason given in paragraph 130 to explain why the Norwegian authorities did not have a complete list of organizations promoting racial discrimination seemed rather weak considering how important it was to take measures against such organizations. As in other respects, Norwegian society was shared between protecting freedom of expression and the need to combat racism. When freedom of speech was used to incite hatred between communities, however, it clearly served criminal ends and sanctions were required under both domestic and international law.

17. With regard to paragraph 136, the Committee's main concern was not so much to have statistics as to be assured that efforts were being made to enable ethnic minorities to participate in activities affecting the city, in particular those of the police and the justice system. It was thus gratifying to note from paragraph 141 that some immigrants were entitled to vote or to stand for election at the local level. Since it had close contacts with the Baltic countries, Norway could perhaps encourage them to grant the same right to the Russian minorities who had been living there for so long.

18. The information given in the report tallied with that provided by NGOs concerned with the situation of immigrants and minorities in terms of social services and employment. However, paragraphs 147 and 148 were confusing since it was stated, on the one hand, that immigrants could follow vocational training courses arranged by the Labour Market Service and, on the other, that their skills were often under-utilised. He would like to know whether that meant that the Labour Market Service only offered jobs requiring few qualifications. It would be a pity if Norway were to deprive itself of the skills of highly qualified people.

19. He noted the information given in various parts of the report on the Sami population and other minorities. Norway was to be commended for the great financial effort it was making to ensure that those people were integrated into society, if they so wished, without giving up their cultural and linguistic identity. Since land could be an important element of a minority's identity, the Committee would certainly welcome fuller information about the Sami who had brought a complaint before the European Commission of Human Rights because their exclusive right to keep reindeer in the Neiden district had not been respected, but whose case had been dismissed (para. 180). He also wished to raise the question of the compensation that would be due to them, under article 6 of the Convention, if their complaint was justified, and asked whether the Norwegian delegation could give more detail about the matter.

20. The information provided on education and teaching was of considerable interest. He would like to know whether the history of each minority was taught within the syllabuses referred to in paragraph 184 and what sources were used for that purpose.

21. Lastly, noting that sporting activities, as part of a people's culture, generated emotions that were sometimes difficult to control, he referred to a criminal case brought to court after racist incidents in a stadium during a match between a black African team and a Norwegian team. That case had prompted a courageous and praiseworthy examination of the very concept, scope and limits of racial discrimination.

22. Mr. WOLFRUM said that he wished to focus mainly on the thirteenth report. The fact that NGOs had been quite closely involved in the preparation of that document was to be commended, but he wished to emphasize that the drafting of the report was nevertheless the exclusive responsibility of the Government.

23. The "linguistic and subjective criteria" mentioned in paragraph 7 for determining who was Sami left him perplexed, especially as, according to paragraph 99, the Sami language had been somewhat neglected. The case of the Finno-ethnic minority population, mentioned in paragraph 9, raised similar doubts because very few of its members still spoke Finnish, according to paragraph 102. He would welcome clarification from the delegation on that point. Another matter of concern was the access of the Sami population to higher education, on which there seemed to be a contradiction regarding the question of quotas between paragraph 17 of the fourteenth report and paragraph 174 of the thirteenth report.

24. With regard to the Sami Assembly, referred to in paragraphs 91 et seq., he asked whether the Assembly also had administrative functions, as would appear from paragraph 94, what powers and functions were attributed to it, who elected its members and who could be elected to it, how many members it had, how it was financed and since when it had been functioning.

25. Further to what Mr. Rechetov had said about anti-immigrant organizations, he too would like to know why such organizations were not prohibited, as required by article 4 (b) of the Convention, and how they had managed to obtain permission to broadcast their views.

26. Paragraphs 115 and 116 showed that the provisions of the Penal Code, of which one article had been duly amended, were consistent with the principles set forth in article 4 (a) and (b) of the Convention. He was surprised to read in paragraph 117, however, that very few racially-motivated crimes were reported, and requested the Norwegian delegation to comment on that issue.

27. A very positive development, concerning the pluri-ethnic composition of juries, was described in paragraph 135. However, given what was said in paragraphs 142 and 150, he wondered whether the principle of non-discrimination was being effectively applied in all spheres and whether, for example, the amendment of the Working Environment Act had actually prohibited discrimination in the field of employment.

28. Regarding education in Norway, where the establishment of private schools hardly posed any problem, he would like to know whether it was true that the plan to create an Islamic school had been rejected by the competent authorities on the ground that the creation of such an institution would lead to segregation. That argument had some validity - and, in its general recommendation XIX, the Committee itself envisaged such a possibility - but it would be interesting to know whether that was the only one presented by the Ministry of Education and in what terms it had done so. In any event, teaching minorities their own language was to his mind a good thing, but he warned against teaching of the minority language alone, as advocated by some NGOs, since that could marginalize those who spoke that language to the exclusion of any other language.

29. Mr. SHERIFIS, noting from paragraph 5 of the report that Norway had until recently been a largely homogeneous society, both ethnically and linguistically, and that the vast majority of the population was of Norwegian origin, said that it would be useful to the Committee to know whether the immigrant population, which had grown substantially within one generation (para. 10), was spread throughout the territory of the country and whether it was endeavouring to become integrated with the population of Norwegian origin. Did it prefer to live in its own neighbourhoods?

30. Concerning the sections of the report relating to the implementation of article 3 of the Convention, he wished, like Mr. Wolfrum, to draw the attention of the Norwegian delegation to the Committee's general recommendation XIX. He was pleased to note from paragraph 17 of the report that government policy concerning the elimination of racial discrimination was aimed at achieving genuine equal status between persons of immigrant origin and Norwegians. According to paragraph 140, moreover, foreign nationals residing in Norway for a period of three years had the right to participate in local elections, being able both to vote and to stand for election, on the basis of universal and equal suffrage. It further appeared that about 90,000 foreign nationals had acquired the right to participate in local elections. He therefore wondered how many immigrants and non-nationals had actually exercised that right and what results had been obtained by the immigrants who had participated for the first time in elections by submitting their own list of candidates. How many of them had been elected? Also, were immigrants represented in the higher administrative bodies and in the executive and legislative organs?

31. He would like to know whether the situation in the public sector duly reflected the fact that Norway was a multicultural society. How was the Norwegian Government endeavouring to ensure the integration of minorities in the public sector without resorting to a system of quotas?

32. Since, according to paragraph 23 of the fourteenth report (CERD/C/320/Add.1), the Anti-Racist Centre in Oslo had stated that 104 incidents attributable to extreme right-wing activities had been reported in 1996, it would be useful for the Committee to have some information about the nature of those extremist groups and their objectives. In relation to his previous question concerning the distribution of the population of immigrant

origin, he would like to know why the acts of violence committed by extreme right-wing groups were confined to specific municipalities or urban neighbourhoods.

13. Referring to a report in which the Anti-Racist Centre had suggested that the Norwegian Government should improve its relations and dialogue with the Centre, he requested the delegation to indicate to the Committee how the Government proceeded in drawing up its periodic reports. Did representatives of the minorities participate in that exercise? It would also be useful for the Committee to know what steps the Norwegian Government was taking to publicize its periodic reports and to make the Committee's conclusions on those reports widely available. The Committee should note with satisfaction, at the appropriate time, that the Norwegian Government had promptly ratified the amendment to article 8, paragraph 6, of the Convention and that it had made the declaration provided for in article 14.

14. Mr. VAN BOVEN said he was pleased to note that the Norwegian Government appeared to have taken account, in its frank and informative report, of most of the recommendations and suggestions made to it by the Committee during the consideration of Norway's previous reports. He was also pleased to see that various bodies and NGOs had been involved in the preparation of the report.

15. Concerning the implementation of article 2, paragraph 2, of the Convention, he noted with interest the measures taken to ensure the advancement and protection of certain minority groups, such as the Sami, the Roma and the Kven, and also of immigrant women and refugee children or children of immigrant origin.

16. Regarding the implementation of article 4, he welcomed the decision, referred to in paragraph 117 of the report, to carry out a survey of prosecution practices related to sections 135 (a) and 349 (a) of the Penal Code, concerning racial discrimination, and hoped that the survey results would be communicated to the Committee in a later periodic report. However, he was concerned about reports from the Anti-Racist Centre that the Norwegian police were reluctant to follow up complaints of violations of those sections of the Penal Code. It was desirable for the authorities to make sure that the police were more vigilant and active when such violations were reported to them.

17. With regard to the information provided in paragraph 135 on the implementation of article 5, he pointed out that during its consideration of communication No. 1/1991, submitted under article 14, the Committee had invited Norway to do everything possible to ensure that justice was not denied by racial prejudice and to guarantee the impartiality of jurors in accordance with the principle set forth in article 5 (a) of the Convention. The case in question showed that the procedure provided for in article 14 could lead to institutional improvements in the country concerned, and he asked whether the directive issued by the Ministry of Justice, as mentioned in paragraph 135, had in fact been formulated pursuant to the Committee's recommendations concerning that communication.

18. Concerning the implementation of article 5 in the field of employment, the fact that unemployment affected 25 per cent of members of the minorities,

As against only 4 per cent of the majority population, suggested to him that the measures referred to in paragraph 150 were probably insufficient and that new arrangements would have to be instituted, including special measures under article 2, paragraph 2, of the Convention.

19. As members of ethnic minorities were victims of discriminatory practices by real-estate agents which violated their right to housing, he wished to point out that the provisions of the Convention proscribing racial discrimination applied not only to the public sector but also to activities in the private sector. In that regard, it would be useful to know what progress had been made with the legislation being considered (para. 164) to prohibit racial discrimination in connection with the renting or purchasing of a dwelling.

20. Since the right of access to any place intended for use by the public guaranteed by article 5 (f), was not ensured in the case of immigrants and non-whites in general, he was concerned by the attitude of the police, which had appeared reluctant to carry out their own investigations when confronted with the overwhelming evidence of an inquiry on racial discrimination in public places conducted by the Anti-Racist Centre, journalists and an official of the Ministry of Justice. He would also like to know whether, besides criminal proceedings, victims of acts of racist violence such as those referred to in paragraph 122 could bring a civil action for compensation.

21. Mr. de SCHUTTER congratulated the Norwegian delegation on the regularity with which Norway's periodic reports were submitted and emphasized that Norway was one of the few countries that had made the declaration provided for in article 14.

22. Thanks to the great frankness of the reports under consideration, the Committee could form quite an accurate picture of racial discrimination in Norway. The situation, however, seemed quite disturbing in that regard. He noted in particular that the majority of the Norwegian electorate was hostile to immigrants, that there were small anti-immigrant organizations which often had links with neo-Nazi organizations and that the extreme right-wing organizations were very active; furthermore, immigrants were subjected to physical aggression and were victims of discriminatory behaviour by some agents of the State. An article in the newspaper Le Monde, dated 12 August 1997, had spoken of the Progress Party's overt hostility towards indigenous people. That extreme right-wing party believed, for example, that the president of the Sami Assembly could nurture similar ambitions among other ethnic groups, and it disapproved of the financial aid provided to the Lapps. The views of the Progress Party, which was set to become the country's second main party, had nevertheless not been condemned by the other parties. What did the Norwegian delegation think of that situation?

23. At the same time, it was gratifying that many positive steps had been taken to combat racial discrimination, including the Brumunddal Plan of Action, the human rights training programme for the police and the army, the Liaison Committee between Immigrants and the Norwegian Authorities (KIM), the programme set out in the White Paper and the involvement of NGOs in the

preparation of the periodic reports. He noted, however, that the Anti-Racist Centre wished to see an improvement in cooperation between the State, NGOs and the minorities.

44. He hoped that a first assessment of the programme defined in the White Paper could be provided in the next periodic report. He would like to know what progress had been made by the advisory team to combat racial violence and harassment (para. 41 of the report). How was that team constituted and what resources were available to it? In addition, what had been the results of the survey initiated by the Director-General of Public Prosecutions (para. 117)? More information would be welcome concerning the leader of a political party who had engaged in racial discrimination (para. 120). Which party was involved, and had the case been heard by the Supreme Court? Lastly, he would like the delegation to indicate whether the bill aimed at prohibiting racial discrimination in housing had been passed and what stage had been reached in the study by the Ministry of Local Government and Labour concerning the possible creation of a national institution against racism and racial discrimination (para. 182).

45. Mr. VALENCIA RODRIGUEZ noted that the Norwegian Government had submitted a White Paper on Immigration and a Multicultural Norway. He agreed with the Government that racism could not be regarded as a phenomenon independent of other problems in society and that an effective welfare policy embracing every segment of society and aimed at affording equal opportunities for all was perhaps the best way of combating racism and xenophobia.

46. According to the thirteenth report, manifestations of racial discrimination in Norway occurred mostly in the form of denial of goods and services and negative attitudes in the streets, workplaces or schools and in the housing market. What steps were being taken to remedy the situation? It appeared from the reports under consideration that the Norwegian population was somewhat hostile to immigrants and refugees. For example, immigrants, particularly those from Africa, Asia and Latin America, had reported discriminatory behaviour on the part of some representatives of the public authorities and complained of being checked more often and more thoroughly than others at immigration and customs checkpoints. What had been the findings of the survey conducted by the Ministry of Justice to examine the way controls of foreign nationals were carried out by the police?

47. He would like more information about the current arrangements for recognizing diplomas and professional experience acquired abroad, as well as about the legislation now under consideration to prohibit racial discrimination in connection with the renting or purchasing of a dwelling. He would also like to have more details about the detention of foreign nationals, as mentioned in paragraph 88 of the thirteenth report and paragraph 31 of the fourteenth report.

the results of the survey which the Director-General of Public Prosecutions had requested all public prosecutors to undertake concerning prosecution practices related to racially-motivated crimes. Regarding the case of the leader of a political party who had recently been convicted by the Oslo City Court on the charge that his party's programme encouraged racial discrimination, he would like to know the outcome of the convicted person's appeal to the Supreme Court.

49. Concerning the Sami, the Roma and the Finno-ethnic groups, which in many areas were not on an equal footing with the rest of the population, he encouraged the Government to redouble efforts to ensure that the Sami language was fully used in all public and administrative proceedings and that Sami culture and traditions were safeguarded. He also urged the Government to make sure that, both in law and in practice, the Roma and the Finno-ethnic population had access to employment and education under the same conditions as the rest of the population.

50. Mr. DIACONU observed that there were some disparities between the various demographic data contained in the report and hoped that the Government would present those data in consolidated form in its next periodic report.

51. It was gratifying to note that legislative and administrative measures were being taken by the Government to combat racial discrimination and that civil society too was making efforts in that direction. However, it appeared from a study published in 1995 that the majority of the Norwegian electorate saw immigrants as posing a threat to Norwegian culture. Furthermore, several organizations representing Africans living in Norway had complained about the fact that the National Board of Health had portrayed Africans as the largest risk factor in the heterosexual spread of the HIV virus in Norway. Nevertheless, new projects were being considered to improve HIV/AIDS prevention among Africans and other ethnic groups, and those projects were to be welcomed.

52. The Government should show vigilance concerning xenophobic attitudes, even if, according to the report, the situation had not worsened in recent years. Norway had a number of small anti-immigrant organizations and there was a radio station in Oslo broadcasting programmes hostile to foreigners. The Parliament had before it a Progress Party white paper affirming that immigrants contributed to increased crime and were a source of problems for Norwegians. The Parliament had, indeed, found it appropriate to call for a study on expenditures for the hosting of immigrants. It could equally well have looked at the economic advantages that immigration brought to Norway. Under article 4 of the Convention, States parties undertook to declare illegal and prohibit organizations which incited racial discrimination.

53. He welcomed the amendment to section 3 of the Immigration Act providing that foreign nationals during their legal stay in Norway had the same rights

54. In conclusion, he was convinced that Norwegian society, with its characteristic dynamism, should be able to overcome the problems connected with immigration and ensure the full implementation of the Convention.

55. Mr. YUTZIS said it was regrettable that the Committee did not have enough time for an in-depth consideration of Norway's fourteenth report. He commended the Government on the measures it had taken to combat racial discrimination and also welcomed the conclusions of the report prepared within the framework of the Brumunddal Plan of Action, which emphasized the need to mobilize the population to combat racism. Lastly, he noted that the Norwegian Press Association had adopted a code of ethics which would facilitate the examination of complaints made against the press.

56. He felt, however, that the lack of statistical information on the ethnic minorities prevented the Norwegian Government from determining clearly the causes of racial discrimination. The Government itself recognized that a survey and an analysis of the problem should be undertaken (para. 38 of the thirteenth report), and that there was no registration in Norway based on ethnicity and that no statistics were available regarding the living conditions of the Roma in Norway (para. 104 of the same report).

57. He was disturbed that racist and xenophobic tendencies appeared to be on the increase in Norway. That was visible, for example, in the public debate on Norway's policy of integration, which was heavily criticized by some segments of the population, which believed that immigrants represented a threat to Norwegian culture. That debate, although allowing for the frank expression of opinions, did not seem to have generated any constructive criticism to help in devising a satisfactory policy for the population as a whole. Like Mr. Diaconu, he was very concerned about the news that a public body, the National Board of Health, had reportedly portrayed Africans as the largest risk factor in the heterosexual spread of the HIV virus in Norway.

58. According to the thirteenth report, the high rate of unemployment among immigrants could be explained by lack of knowledge of the Norwegian language. However, paragraph 14 of the fourteenth report stated that the Norwegian Government favoured active recruitment of qualified persons with an immigrant background in the public sector, but was not in favour of establishing quotas whereby individuals, for example on ethnic or language criteria, would be appointed to positions instead of others with better qualifications. He would like to know whether the Government intended to take steps to redress that situation, which represented a vicious circle. He asked why one radio station continued to be allowed to broadcast anti-immigrant programmes. Was there no code of ethics which could be applied in that case?

59. He would like to know more about the information system used by the armed forces to prevent discrimination. He welcomed the fact that the Government recommended the use of mediation boards for conflicts which arose

discrimination and noted with interest the activities of the Interdisciplinary Advisory Group on Community Relations and Anti-Racist Work, as well as those of the Anti-Racist Centre in Oslo. He asked what measures were envisaged by the authorities to follow up on the Centre's annual report, in particular with regard to combating acts of violence, the destruction of property and propaganda. He noted with satisfaction that the objective of a survey among foreign citizens conducted by Statistics Norway in 1993 had been to contrast differences in the standard of living among persons of immigrant origin and the majority population and to describe the process of social integration of immigrants over time. He commended Norway for taking account in its cultural policy of the fact that the country had become a multicultural society, and asked for more information on that policy.

The meeting rose at 6.05 p.m.